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IN THE SUPERIOR COURT

OF THE STATE OF CALIFORNIA

The People of the State of California,

vs.

VOLUME

18

IN THE SUPERIOR COURT,

State of California, County of Sacramento.

OCTOBER SESSION, 1881.

HON. JACKSON TEMPLE, - - - - - PRESIDING JUDGE.

WINFIELD J. DAVIS, OFFICIAL REPORTER.

SAMUEL OSBOURNE AND WILLIAM M. CUTTER, REPORTERS.

The People of the State of California,

vs.

The Gold Run Ditch and Mining Co. }

COUNSEL:

For Plaintiff,

HON. A. L. HART, Attorney General, GEORGE CADWALADER, ISAAC S.

BELCHER, A. L. RHODES, RICHARD BAYNE.

For Defendant,

J. K. BYRNE, W. C. BELCHER, S. M. WILSON, W. T. WALLACE, A. B.

DIBBLE, A. P. CATLIN.

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In the Superior Court
of the State of California
in and for the County
of Sacramento

The People of the State of California	} Afternoon Session Saturday Dec. 10/81
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Afternoon Session
Saturday Dec. 10th/81

Testimony of
A. S. Greenlaw

Mr. Hart. Did you make any
Examination to ascertain where
the sand went to? A. Yes
I Where did it go to?
A. Into the Sacramento River
I From the American? A. Yes.

Prop. Examination of
A. S. Greenlaw

Mr. Cahill. You say that you
ascertained by Examination
that the sand went into the
Sacramento River? A. Yes
I How did you ascertain
that it went into the Sac-
ramento River?

A. I took soundings in
the river.

I On the Sacramento ri-
ver?

A. On the American river
Along the Southern or
South side

I. You took sound-

ings with a pole from the bank of the river?

A. Yes, sir.

Q. You had no boat?

A. You could not go out into this stream with a boat. The current was too strong.

Q. Answer my question? You had no boat?

A. No, sir. I had none of my own. When I was out at this point, I met one on the river.

Q. Did you make these soundings in a boat?

A. No, sir.

Q. You made them with a pole, on the bank?

A. Yes, sir.

Q. And by these soundings you ascertained that the sand from the bar, between 10th and 13th streets, had gone into the Sacramento river?

A. Yes, sir. I will explain.

Q. Well, explain what further knowledge you have in regard to the matter? Ans.

on that question?

A. Not much.

Q. How then did you ascertain that this sand was carried into the Sacramento river?

A. By the current.

Q. Where was the current at that place and time?

A. The main current of the river, all along between these points, at that time, was in the centre.

Q. Might not some of that sand have lodged along the way? A I made due allowance for that.

Q How much did you allow for that? A I struck off one third.

Q Why did you strike off one third instead of striking off one half?

A I did not think that that much would be left.

Q You guessed at that? A I thought that would be

rights I made soundings
all along the river bank
to find out about that.
Q How would those soundings
indicate that to you.

A As to the bar on the
South side, particularly; at
one place there was
seven feet and at another
place there was six feet
of water. Right at the bank
where that bar formerly was
Q How did that indicate
to you that the sand had
not been lodged at some
point, some other point,
before it arrived at the
Sacramento River. A Ah
that depth of water, there
would be no room for
it.

Q Did you sound the
River all the way down.
As I said: my conclusions
were drawn from sounding
the depth of the River and
from noticing the
amount of water in the River

Q Where did you sound with this pole A All along on the bank of the River from the points I have named. I sounded below where that bar was, right along. And I sounded at various points opposite to where the Bar was, on this side. In a distance of a mile and a half I sounded Eight times particularly. Occasionally I put my pole in at other places.

Q That is to say: From the bank of the River you thrust your pole down Eight times A Particularly at those points. I put it down at other places and found no depth. No bottom.

Q How did you find it generally A I sounded it more than Eight times. I put the pole down at Eight particular places. and then at other times.

Q Between what points.
 A Between the points where I first indicated, And down for that distance that I told you -

Q Where did you commence with reference to Thirteenth Street A I started just about at Fourteenth Street. Or just below. between Thirteenth and Fourteenth Streets -

Q How far down the American River or down the banks of the American River did you sound with your pole A From that point which I have have named, at Eight different place, down to the mouth of the American River -

Q How near to the mouth of the American River
 A I went clear down to the mouth -

Q And at the mouth of the American River

you placed your pole -
 A I could not reach
 down just at the bank,
 but I came as near to
 it as I could -

Q How high is the bank
 of the American River at
 its mouth: How high is
 the bank above the water
 A I did not measure
 that bank: but I think
 it is Eight feet or may
 be ten feet high -

Q Do it not measure
 Sixteen feet high A I
 think it is Eight or
 Ten feet. It was too
 far down for me to
 measure it with a
 pole

Q Your pole was
 fifteen feet A Yes Sir:
 But I couldnt get at
 it just there -

Q Was it not as
 much as Twenty feet
 A I know I had a
 fifteen foot pole, but I

Could not reach there so
 as to sound the bottom
 Q Was the Bank too high
 for you to sound at that
 place with that pole
 A I tell you that I
 didn't take any soundings
 immediately at the mouth
 Q How far was it from
 there to the bar in the Mouth
 A I think it was about
 Three hundred feet wide
 Q What other instruments,
 if any, did you use for
 estimating this Two
 hundred thousand cubic
 yards, besides that pole
 A I will state to the
 Court — ~~Mr Catlin~~
 Mr Catlin (Inly) — I am
 Examining you now
 A I will answer your
 question
 Q I wish you would;
 what other instruments
 did you use besides your
 pole A I used a
 foot rule

Q How did you apply that?

A I measured my Stick

Q You measured your pole with that foot rule and ascertained that it was fifteen foot long

A Yes sir

Q What other instrument did you use A What nature give me. I stepped the ground -

Q Your legs A Yes Sir. That is the way I have been accustomed to measure the land there; And I have been pretty accurate in my measurements there too.

Q You don't know anything about measuring cubical contents of a body of land, in any other way A Yes Sir.

Q How A Get the exact measurements by instruments and then compute the contents -

Q What kind of

Instruments?

(The Witness) How do you mean

Q I mean just what I say.
What kind of instruments
do you refer to A If it
is a Cube that you want
to get at, you measure
the length breadth and
thickness

Q Tell me if you know
what kind of instruments
you would use to measure
the Cubical Contents of a
body of land. A To be
exact in measuring a
body of land like that,
you would have to have
such instruments as you
could take direction by.

Q What kind of instruments?

A Such instruments as
Surveyors use.

Q What are they?

A They use the compass
and other instruments

Q What beside the compass?

Mr Hart we have not
put this witness on the

Stand as an Expert. You
don't dispute that he can
make those measurements
with a pole!

Mr Catlin What other
instruments would you use
A Such other instrument
as will measure exactly
and accurately the Contents.
I don't know as I could
define their names now,
I might be mistaken about
their names. I mean
such instruments as it
is well known Surveyors
use. I don't know as I
am called upon to define
their names.

Q Could you define them
if required A I think
I could.

Q You think you could
A Yes sir.

Q Tell us what they are?
You say the Compass is one?
What are the others?

A You can use the Sextant.
The Quadrant is sometimes

used -

Q The quadrant is used?

A No! I don't think that is very often used. That is used for measuring angles -

Q We are talking about measuring the cubical contents of a certain body of land?

The Witness } I will state to the Court -

Mr Catlin (Intg) I am questioning you now. A well I should say that a Compass and a Sextant would be used -

Q The proper way would be to use a Compass and a Sextant and a Quadrant?

A I didn't say quadrant -

Q Then you take the Quadrant part back?

A That is not used generally. I don't pretend to know about these things exactly. I know that such instruments are used.

I may make a mistake in terms -

Q You measured after the water in this River had risen four feet

A I measured during the rise of the River; and after the rise of the River had gone down -

Q How did you ascertain that the river had risen four feet A By measurement -

Q How? A With a stick by which I took the measurement at the Bridge. That gave the full rise. There was a four feet rise at the bridge. At the time I measured, there was a three feet rise. But the actual rise of the River was a foot higher. That was after half past three, Monday -

Q Did you measure these bars so as to ascertain their contents before the

River rose A Yes Sir
 Q When was that A Last
 August

Q You measured these bars
 A Yes sir

Q For what purpose did
 you measure them then
 A For my own satisfaction,
 to know the amount of
 sand in the River. The
 matter was agitated then,
 that is the reason that I
 made a computation of
 that particular bar. The
 other bars I measured by
 comparison -

Q Which particular bar
 did you measure A The
 upper bar on the South
 side of the River -

Q Between Tenth and
 Fourteenth Streets. A The
 commencement was about
 at Tenth and it extends
 to Thirteenth -

Q How did you measure
 that in August last?

A I took the line of the

Streets. That would give
 me Twelve hundred and
 Eighty feet. I stepped from
 the bank to the Extreme
 point of that Bar; which
 was one hundred and
 forty Steps. At a point
 One hundred Steps from
 the bank, that bar fell off;
 was lower. And for forty
 Steps to the River, to the
 outside point, was lower.
 That was the lower point
 of the bar. Now in making
 this measurement — This
 being a Crescent — I cut
 off from the upper end
 of the bar and from the
 lower end of the bar and
 from the front of the bar,
 such proportions as would
 give it, In my best judgment
 square angles. making it
 a parallelogram —
 Q You measured it by
 cutting it off and not
 measuring it. A No Sir.
 Q You didnt use your

legs for that purpose?

A No sir: Not in measuring the length of the bar. because I could get an exact measurement of that by the Streets. I will say to the Court this -
 Mr Callin {Intg} you will say it is time I am conducting this Examination -

The Witness I wish to Explain
 Mr Harb Of the witness desires to make an Explanation to the Court he can do so, all this Testimony is addressed to the Court -

Mr Callin Well I presume the witness is to answer my questions -

Mr Harb Certainly he is, but the Testimony is addressed to the Court.

Mr Callin I suppose it is addressed to all of us, to the Court and to the Attorney and to the Reporters, and sometimes to the Audience. That may be owing to what

Witness we have on the Stand.
 Now you say that this body
 of land is in the form of
 a Crescent A Yes Sir
 Q You had to get it into some
 form so that its Cubical
 contents could be estimated
 A Yes sir

Q Now by what measurements
 did you square that Crescent
 body or get it into the form
 of a square? Did you
 measure the line with any
 other instruments? with
 a tape line or a chain or
 anything of that kind. A I
 will state to the Court —

Q (Intg) If you used a
 tape line or a chain, you
 can say so. You can
 answer that simple
 question Yes or no

A No Sir: I did not.

Q In other words, you
 guessed it —

Mr Hart (Intg) He didn't
 say that —

Mr Catten If you did not

step it, for that purpose,
You can say so. A I
told you what I did -

Q If you didn't step it and
if you didn't measure it
by a line or chain, didn't
you guess it, A I will state
Exactly how I Estimated it
Mr Karl Did you guess it
A No Sir. I followed my
best judgment -

Mr Callin If you did not
measure it then either by
stepping it or in any other
way, by what process of
reasoning did you get at the
distances by which to square
that Crescent or put it into
the form of a square?

A Having the form before
my eye, I took off one
hundred and eighty feet -

Q [Intg] By your eye?

A No Sir.

Q If not with your eye,
what did you take it off
with? A There was that
Crescent there before me

at the time. I could see the whole thing - And I Estimated that so much of that Crescent should be took off of each End and placed on the Corners - And then I cut off so much from the front part and put it on the other side, until I jidged that it was reduced to rectangular shape - Making a rectangle measuring Three hundred yards long and one hundred yards wide -

Q That is the way you made your measurements in August last. A I did not measure it Exactly that way in August last -
 Mr Hart I object to this, I object to their Cross Examining the witness on matters which they themselves brought out. And I object to any Cross Examination now of his former Examination. I only Examined him as to the measurement which

he made the other day.

Mr Catlin He states in a general way that he has ascertained by his mode of measurement that there were three hundred thousand cubic yards in this Bar, of which two hundred thousand cubic yards had been carried away - That was his general statement on direct Examination. Now he can only be cross examined as to that by a comparison of his measurements made before the rise with those made by him since the rise -

Mr Hart He made the measurements which I asked him about immediately before this rise -

Mr Catlin He said he made them in August. The measurement you made before the rise was in August. A I measured it in August; yes sir. And then I measured it

again the other day. That was what I stated. - I made a deduction from the other measurement, from the fact that the ear had washed off some on the upper side. That would make the contents some what smaller. - And I made an inside measurement; to be sure that I was not over estimating -

Q Well, the measurement that you made the second time was the same that you made in August except at the last measurement you used a pole fifteen feet long. A I used this pole in measuring the depth of the water -

Q You didn't use a pole in August? A No sir. There was no necessity for it. I used the pole at the last measurement to ascertain how much of

this sand bar was washed
away —

Q You dont know from
any observation of your own
that that sand went into
the Sacramento River. A
Yes Sir.

Q How do you know?
A I saw it going down in
that direction and I measured
the place where it had been
and along the line of the River.

Q Where did it run into the
Sacramento River. A I know
that some of it went out
of the mouth of the American
River —

Q Did you see this all going
out. A I did not see it all
going out. but I could not
find it in the American River
afterwards —

Q Might it not have laid
or lodged down in the muddy
water of the American
somewhere. A No Sir.

Q Why not. A Because
there wasnt any room for it there —

Testimony
 of
 E. J. Crolly
 Called for the Plaintiff
 and Sworn -
 Mr. Cadwalader Are you
 a member of the firm
 of Carl & Crolly A. Yes
 Q Was it the firm of Carl
 & Crolly that closed the
 break at Lovdallo in 1878
 A. Yes
 Q You are Contractors are
 you A Yes
 Q And Builders A yes
 Q How long have you
 lived here A. Twelve years
 a little upwards
 Q I will ask you if your
 firm had the Contract for
 pumping the water out
 of this City in the year
 1881 from Y Street A Yes
 Q What machinery did
 you put there and what
 was its Capacity per day
 A. We put Chinese pumps
 there -

Q How many A Eight

Q What was their Capacity

A About Twenty Millions gallons per day

Q How much A, about Twenty Millions gallons in a day of Twenty Four hours

Q How many days did you pump A We pumped forty nine days

Q When did you commence pumping A We commenced pumping with the Chinese pumps on the ninth day of February

Q Did you pump over the yr street levee A Yes

Q And where with reference to the Drainage Canal

A Almost immediately over the Drainage Canal

Q What was below you in regard to water

A Well there was water over nearly the whole surface

Q Where did that water come from A, a portion

of it came from what
is known as Burns Slough
Q I mean the water below
you A The water below
the Y Struck Levee?

A Yes A It backed up
from the break at the Mesick
Ranch and the water that
was pumped over.

Q And also the Fern Break

A Yes

Q What proportion of the water
that you pumped out or
that was on the inside came
from Burns Slough and
what from the City

A Well I have no
means of measuring it
but I will give it just
as my opinion that about
one half of the water
we pumped over the levee
came from Burns Slough.

Q and the other half came
from the City proper

A Yes

Q Does Burns Slough
take its rise within the

City Levee System A I think
within the Levee System of
the City

Mr Cattin I object
to the question because it
is leading

Mr Caddwalader Then I
will change it. (To Witness)
Where does Burns Slough
rise with reference to the
City Levees and where does
it empty with reference to
the City Levees A. To the
best of my knowledge it
rises in the North East
portion and beyond the
North East portion of the
City limits and empties
chiefly at Sixteenth and
Y — A portion of it did
empty at Eighteenth and
Y —

Q Whereabouts A It first
struck Thirty First Street
at G I believe between
G and H

Q How with reference to
East Park A A portion

of that was flooded

Q How was Burns Slough with reference to East Park
Mr Catten It runs through East Park as I understand it A Yes it runs through East Park

Q How does it run with reference to Sutters Fork
A I should judge though I never have taken any measurement or survey — I should judge it was in a westerly course

Q It runs west of it A yes west of Sutters Fork

Q I will ask you if after you got through pumping water there was any water in the City above Y Street A Yes. I think there was a little between Fourth and Fifth

Q and R — Fourth and Sixth Q and R.

Q What became of that
A well it gradually drained off after the overflow below Y Street had subsided — It evaporated and

run off -

Q When did it disappear from the surface A I think about the First of May

Q Well in relation to the fall of the Sacramento River, the going down of the Sacramento River A It fell as the River would recede -

Q It fell as the River receded A Yes

Q Have you noticed in your building operations in this town the phenomena of the water rising and falling in the excavations objected to

Q What has been your experience and observation in regard to the rise and fall of water in excavations that you have made in this City -

Objected to

Q I will ask you whether you have made excavations in this City A, We have had

Excavations made -

Q How many A I could not tell now. We have put up numbers of buildings here and have had Excavations made by other parties -

Q What are they for
A For buildings and for vaults.

Q Now state what your observation is in regard to the water in these Excavations A My observation is that it rises higher when the River is high -

Q How in regard to the fall
A It falls when the River recedes and in low water, what is known as low water in the River there is no water in those Excavations -

Q At what time in the year do they dig their vaults here in this town A Sometimes at nearly all seasons of the year - Chiefly in the months of September

and October -

Q I will ask you whether you observed - What kind of sand you observed in the Lordal break in 1848.

A Chiefly dark colored sand. Nearly black -

Q Nearly black A yes

Q Now in color with reference to that { Exhibiting a bottle of sand to the witness } A as near as I can recollect it would be much of the same color that that is -

Mr. W. C. Belcher What is that - What is that material - Mr Cadwalader - This is Henley, opposite Sacramento. (Henley No. 7)

Q Did you see any sand of a darker variety than that - Objected to

Q Did you see any sand there of a different color

A I saw lighter sand -

Q Did you see darker

A I do not think that I did

Mr Cattin objected to the last question because it was leading and the question was withdrawn.

Cross Examination

E. J. Croly

Mr Cattin You say you had a Contract for pumping the water that was in this City above Y Strub A Yes
Q When was that A The contract was signed the first day of February 1881-

Q About one half of that water came through Burrs Slough and the other half came from natural surface drainage in the City

A That is my opinion

Q Then it is your opinion that none of it came in from the Lordal Break

A I could not say. No Sir I do not know that there was any Lordal break at that time -

Q Or the Fern break &

Should have said A I do not know

Q The Y Struck levee was complete and tight, was it
A I do not know. I did not borrow through the levee

Q There were no openings in it to let in the back water from the Fern Branch

A Not that I am aware of -

Q What was the difference in the level of the water on the South side of the Y Struck levee and on the North side of the levee where your pumps were situated A It varied in height -

Q What was the average difference A I could not tell you that just now - I have not the data with me

Q Give us your best recollection A Sometimes - at one time I think it was two feet and a half higher on the outside than on the inside

and at other times it was not so high - We kept reducing the water as we were pumping -

Q As you reduced the water on the inside, on the upper side, as you reduced that the difference would be greater I suppose a Not necessarily so -

Q What was the general difference in the level of the water on the south side of the Y Street levee

A It was generally higher

Q Did that sheet of water that you did pump out extend over most of the territory lying between Y Street and R Street

A The most of it was between Y Street and R Street and Front Street and Ninth and a portion -

Q (Intg) Y Street on the South R Street on the North and the Sacramento River or the levee on the

west a Yes

Q and Ninth Street on the East A Chiefly

Q It extended beyond Ninth Street in some places A yes. It extended beyond R Street in places -

Q How far up the City beyond R Street did it extend at the time when it was the highest A I think it came up to M Street about half way across the center of M Street at one point

Q It covered M Street in part A. yes

Q And N Street and O Street

A In part

Q P Street and Q Street

A In part

Q How many blocks did it cover there of City lots above R Street in whole and in part A In whole and in part to the best of my recollection about thirty blocks -

Q From what point did Burns Slough first receive this water and from what source did it receive the water which was discharged into this basin A From the water shed East of the City Extending to Brighton -

Q It received none from the American River A I could not say.

Q Was it open so as to receive any discharge from the American A I am not aware that it was. I am not aware that it was open so that there was any -

Q Do you not know generally as a matter of fact that it did not receive any - A I did not go along its line and I do not know. I was engaged at Y Street but I know the water came down there in vast torrents.

Q Were there very heavy rains at that time or about that time A Yes

Q State whether they were unusual rains or not A I do not know what you would define as unusual

Q Well state the nature of the rains. State whether they were very heavy showers the rain continuing a great length of time or whether they were moderate rains such as we have occasionally or whether they were excessive rains

A At times it would rain very heavy perhaps for half an hour or may be an hour and at other times it would rain moderately

Q Do you know whether or not it rained at the rate of an inch an hour A I do not know. I had no instrument for measuring the rainfall -

Q What extent of drainage area was it that fed this Burns Slough A I could not say what the area is

4958 Q Can you tell something

about it. A I never measured it -

Q I know you never did. I am asking you whether you cannot judge from your general acquaintance with the country

A It may be seven hundred acres in area -

Q Seven hundred acres

A Yes

Q If it drained all the water from Brighton it would cover much more than seven hundred acres A There is a portion there that was never overflowed -

Q I understand that I am speaking of the surface that Burns Slough drained. What area would that cover A As I before said, probably seven hundred acres probably more -

Q Would the drainage of that seven hundred acres extend the drainage up to Brighton A Possibly it might -

Q Now I will ask you whether a part of that basin of water within the Y Street levee, above Y Street, was not discharged by the natural outflow after the water had fallen on the South side of the Y Street levee. A a great portion of it. Yes.

Q A great portion of it. A yes.

Q Then you did not pump it all out. A No Sir.

Q How was it that you were able to drain a large portion of it by natural drainage into the South side of the levee. A I do not understand that question Mr. Catten.

Q You say if I understand you that a good deal of this basin of water lying between Y Street on the South and Ninth or Tenth Street on the East and the Sacramento River on the West and up as high as M Street on the North drained through there naturally. A. Yes.

Q Well now that portion of course you did not pump out. A You do not understand or will not understand my statement. The natural flow is down there. We did not pump every drop of it out or every gallon of it out.

Q What I want to get at is this: While the water fell on the South side of the levee so low that you were able to open the levee and let the water run out a portion run out. A Yes. a portion run out.

Q Now what caused the water to fall on the lower side of the Y Street levee in order to make a difference in the level so that the water from above could flow into the ground below. A I believe it was because of the closing of the Kern break. We stopped the break and shut out the water from the Sacramento and prevented it from

backing up on Y street -
 Q Do you not know that
 it was principally in con-
 sequence of the opening of
 the Freport levee and letting
 it escape at that point -

A No sir I do not know
 that -

Q You do not know that
 A No sir

Q Was it not caused by
 that at that time and was
 it not opened by you for that
 purpose A No sir. It was
 not opened for that purpose
 by us.

Q Was it opened at any
 time during your pumping
 A I do not know anything
 that transpired in regard to
 that after we quit pumping

Q You do not know that
 it occurred after you quit
 pumping A In regard to
 the opening of the Canal -
 that was your question - or
 the levee at Freport?

Q Was it opened at

that time for the purpose of allowing the water to go out - at any time A I do not know that it was -

Q Now in regard to the water, you say when you have been excavating for the foundations of buildings you noticed the rise of the water. When you are erecting a building upon the old grade as distinguished from the erection of a building on the high grade, how far down do you lay the foundations say of a large brick building A From Eighteen inches to Thirty. I depends somewhat on the character of the soil and the character of the building that we are going to put up -

Q If you are erecting a building in the month of September do you not lay your foundations deeper than that A No sir not necessarily -

Q On the low grade.

A No Sir.

Q How deep generally do you dig when you are erecting a building on the high grade.

A From Ten to Twelve feet.

Q You say in that kind of Excavation you have noticed this water A Yes.

Q And that when the River was high you would find the water high in the ground and it would fill up these trenches that were dug for the wall.

A What trenches?

Q The trenches that are dug for the foundation walls A Yes.

Q When you were Excavating for the Foundation of a wall you would find the water sooner when the River was high than when the River was low A Yes.

We did not find any when the River was down to the low water mark. We did not find any water in

the trenches at that depth
 Q When the River is low the
 water in the lower soil is
 also low A Yes -

Q Is it not also low then
 in the lands below the Y
 Street level A I do not
 know. I have never Excavated
 below there -

Q Do you not know it as a
 matter of fact A I do
 not know it as a matter
 of fact but I know it as a
 matter of theory -

Q Have you ever been below
 Y street in the Summer A Yes

Q You found the water
 as high there on the surface
 as you did in the winter

A No Sir. I did not find
 any water there when the
 water was low in the River

Q Then below on these
 low lands below Y street
 and R Street in the Summer
 you did not find water
 as high as it was in the
 winter. A I did not

find any because I did not
Excavate any there -

Q Did you not see any
standing there in places
where excavations had been
made for brick yards. A In
the Summer Season?

Q In May and June

A I have seen it in May
and June -

Q Have you not seen it
in July A I would not like
to say in July -

Q Have you not seen it
standing in the low places
below R Street all through
some of the seasons -

A Yes notably in Sutter Lake

Q Where is Sutter Lake

A It is about two and a
half miles below R Street

Q Have you not seen it
standing in Lakes between
Y Street and R Street

A Yes. I do not know
whether you would call
them Lakes. I think there
is a small Lake - what

they call a Lake between R and Y streets -

Q Where water stands all the year around usually -

A Yes

Q I will ask you if in the western side of the City Cemetery there is a Lake a good deal of the year A Yes

Q That is very near Y Street

A Yes

Mr Cadwalader That is a part of the Drainage Canal

Mr Carter I do not think it is -

(The Witness) I understand that it is a part of the Drainage Canal -

Q Then there is a Lake that borders on the western side of the City Cemetery into which the Drainage Canal discharges A at one time I believe it did

Q Where does it discharge now - A I think it goes through the levee at Sixth Street -

Q On which side of the City Cemetery does it pass
 A On the West

Q Into that Lake A I do not know that there is any opening at the Y Street levee now other than the one at Sixth Street -

Q I will ask you whether the drainage Canal goes into that Lake lying immediately to the west of the City Cemetery - A I tell you that I do not know, I am not aware that it does at present -

Q Where does it go at present

A I have already answered that question, At Sixth and Y Streets

Q Does it not discharge into this Lake A I think not -

Q How near to it does it go A It might be two blocks and a half from it -

Q Look at this Map here

(Referring to the Official Map of the City of Sacramento.) This is the City Cemetery A Yes it is marked there Duck Lake A Is there a Lake there running through G Street and coming nearly up to the R Street levee A I believe there is -

A That has been there as long as you have known the Country A Yes

A Does the drainage Canal drain to this Lake A No Sir, I think it goes out at Sixth Street -

A It goes pretty close to it A Yes

A At one time it drained in it A Yes

A Why do they not drain into it now A I cannot tell -

A Is it not because they find a little lower ground here on which to carry it A I think not -

A And that they have taken this

Sag on the lowest ground for the purpose of the drainage Canal
 Q There is a point through here that is a little lower I think { Indicates }

Re direct Examination

of
 E. J. Croly

Mr. Cadwalader. Mr. Witness I will ask you Whether this is not generally now the course of the drainage Canal { Indicating on the map } Objected to as being leading -

Q Just go on and indicate the course of the drainage Canal with reference -

Mr. Catlin. I object to this Examination. It is leading

Mr. Cadwalader. Mr. Witness Come here will you { The witness left stand and went to where the official map of the City of Sacramento was hanging in the Court Room } State where the drainage Canal runs with reference to the Cemetery A At present?

Q Yes

{ The Witness indicated on the map }

Q It runs behind the Cemetery

{ The witness indicated on the map }

Q Now where is the Riverside Road -

{ The Witness indicated on the map }

Q What is Cemetery situated upon - { Objected to }

Q The drainage Canal is how deep there in some places behind the Cemetery { objected to }

Q Did I understand you to say that after you got through pumping the water that was left - or how did the water that was left there after you got through pumping escape

A portion of it run off in the drainage Canal after it was cleaned out and a portion by Evaporation -

Q How in regard to percolation A I presume that a portion of it percolated through the soil as the River fell -

Testimony

John Rider

Called and sworn for the Plaintiff
Mr Cadwalader How long
 have you lived where you
 do now A I have lived
 there about Twenty Four years
 since 1856 -

Q How near is that to a
 place called Rabel Tannery
 A Well I should judge it is
 about three quarters of a
 mile -

Q What North and South
 Street in this town crosses
 your place - A I live on
 Eighteenth Street, Eighteenth
 Street crosses right to my
 house

Q Which side of the new fence
 do you live on A I live
 on the North Side -

Q You have always lived
 there A Yes I have
 always lived there

Q Do your lands come
 down to the new fence

A Yes. I own land from
Fourteenth to Twentieth
Streets

Q From Fourteenth to
Twentieth A Yes

Q That would be in here
(pointing to map) A yes

Q Do you run to the Ameri-
can River A No Sir I only
run back as far as -

B Street North -

Q How many streets is
that A That is one street
beyond A Street - There
is A Street and then there
is A Street North and then
B Street North -

Q Did you cultivate that
land prior to 1862 A I
commenced cultivating it
when I first went there.
I did not own as much
land then as I do now
but I have cultivated
the land ever since I
have resided there -

Q Were you cultivating
the land at the time of this

Flood of 1862. A. Yes.

Q How far is it from Rabels Tannery A about three quarters of a mile

Q On what Street was Rabels Tannery A Rabels Tannery must be about Twenty Seventh or Twenty Eighth Streets where it would strike the levee there -

Q Where did the water break into Sacramento first in 1862 A The first break was about -

Q (Intg) I will put it this way: Did it break in at Rabels Tannery at that time (Objected to)

Q Did the Water break in in December 1861 into the City at what is called the Rabel Tannery break.

A It did

Mr Callin I object to these questions they are leading Mr Cadwalader This is simply a predicate to something else -

The Court. Where did the water break in A The water broke in at two places that season -

Q Which one was nearest the Rabel Tannery A The levee run across near Thirty First Street and it run out in a direction toward Brighton, in about a South East Course and it broke there first and run down into the City there and it run down over the R Street levee. That was the first break and afterwards there was a break at Rabels Tannery the same season -

Mr Cadwalader At what time A I think some time in December

Q Do you recollect the highest water in 1862

A I do not recollect what the high of it was at the gauge

Q Can you state what

the high of the highest water
 of 1862 was on your
 land A It was on
 the natural soil there around
 my house about a foot.
 I recollect very distinctly
 of walking around on the
 ground there without the
 water getting over the top
 of my boats. The A Street
 levee was dry and a good
 many people got their
 stock out on that levee -
 Q How high was that
 levee then A I judge
 that levee was about
 three feet or three and
 a half -
 Q That was the old levee
 before the construction of
 the present one A That
 was the old A Street levee
 Q What was the high of
 the water at the same place
 in 1881 A Well I should
 judge eight on the same
 ground - The ground has
 filled up there some

It was about Eight feet
 higher than it was in
 1862 or very near it -
 Q State if you know
 How much the water
 level has raised at that
 place since you went there
 A Well I can only judge
 by my well and by what I
 have observed since. I dug
 my well when I went
 there in 1856 and I
 recollect very distinctly
 the depth of it. I had to
 dig about twenty four
 feet. I dug down into the
 gravel and I had during
 that summer about two
 feet of water in the well
 and now, at this present
 time I should judge it
 is not quite sixteen
 feet. Q In the summer time
 A. In the lowest water. Q From the top of the
 well A From the top of the well. The well is
 bricked up to the top but we do not use
 it for anything except for stock —

I What ^{was} this; also a street
levee used for? A When

I During the high water
of 1862? A It was used
for a place to keep stock;
there was no other place in
the city that stock could be
kept. That was perfectly
dry that is on top of it.
There was only one place,
there was a place about
20th ft. that it broke through
a little all the way out to
the break at Rabel's tannery
was perfectly sound and also
down until you got I think
about 7th St. there was an
other break there.

Crop-Examination
of
John Rider

Mr. Cabler: That old a. Street
levee was from 3½ to 4
feet high you say?

A I think about that.
I What was its width on

top? a It was not
 very wide I do not think
 it was more than - well
 probably not over three feet
 I think feet wide on the top?
 a Yes sir

Q. And where it was not
 broken it was dry on the top?
 a Yes sir

Q. And on their foot strip
 of ground was where all the
 stock of the City was kept?

a Well, I do not mean
 all the stock in the City,
 I mean that stock that was
 got over from probably -
 well over as far as I Street;
 there was mostly cows and
 all the cows in the neighbor-
 hoods, a great deal of the
 stock was bought there.
 I do not pretend to say
 that all the stock in the
 City was there.

Q. I supposed you did?

a Well, I take that part
 of it back

Q. And leave the rest?

A. I mean all the stock
that comes to get there

2. You do not mean to tell
me all the stock that comes
stand on it?

A Well, pretty much all the
stock comes stand on it. It
was very badly tramped down
when the water went down

I know many head of stock
were on it? A Well, I
should judge there was —
2 Mustang cows, how many?
A Well, I guess Muster had
about Eighty head himself
and there must have been I
think all along probably
100 head of stock.

2 It can't be any island
in that vast sea that way
any where visible from the
Section where you lived?

A No place except Poverty
Ridge

2 That was out, was it?

A That was out, Poverty
Ridge and the City Cemetery

2 The water broke as first

at about 31st Street?

A Yes sir

Q That is above Rebels Tannery?

A Yes sir

Q Then after breaking in there it also broke at Rebels Tannery?

A Yes sir

Q Then the levee was not broken from Rebels Tannery which is about 27 or 28th St. down to where you live opposite 14th St. did you say?

A 18th Street with the exception of 20th Street. 20th St there was a break there

Q. a little break there?

A Yes sir

Q. Now when the water entered the City from those breaks and filled up the City here? and you said at that time was not covered, that portion outside of the levee was not covered to more than about a foot in depth?

A About a foot.

Q Where your house was

A Yes sir

2 How was it farther back from your house toward the American River - what was the depth there? A It was very deep. There was a slough then which ran down which has been since filled up, that ran down from 10th St - It ran down and crossed about 20th, and I should think about C or D Street nearly and ran down to a slough and ran out, down out 22nd St and ran down into this slough here by Panny Slough and ran down at the mouth of the old American River.

2 Now in 1881 the water was much higher in that same spot where your house stands than it was in 1862?

A Yes sir, I should think so.

2 Can you state the reason why it was so much higher in 1881 than it was in 1862 - give you idea of the reason why

A Well, my idea might not amount to very much as far as that is concerned about it really, I can not come to any conclusion. I do not know really what was the reason. The ground is filled up a good deal, is one reason around my place. That used to be low ground.

I. Well, was not one reason because there was a big levee there known as the North levee which was not broken in 1881 and which prevented the waters from flowing over the ground that it flowed upon in 1861-2.

A It has been a question in my mind -

I. Can you answer that question first and then we will get at the question which were in your mind? A What was the question?

I The question was this: In 1881, did not the North

Levee remain unbroken?

A Yes Sir

Q And it has kept the water from flowing where it did in 1862 did it not?

A Yes Sir

Q Did not that make the water higher over your land than the water was in 1862

A Well, I suppose I can tell you my opinion

Q I am asking you as a matter of fact whether it did or did not.

A No! I want to know what the reason was. Now I want to give you my reason

Q I want just to know what the fact was, it reaches the North levee?

A I say it not break.

Q It did not break I know that. Did the water come up against the North levee?

A Yes.

Q How high how near the top of it?

A I think it backed about 2 feet and a half off going over at 18th street.

Q. How high is that North levee compared with the old levee on a street as it was in 1861. That levee was about $3\frac{1}{2}$ feet high, how high was the North levee?

A. The North levee is about 10 feet.

Q. And it came within two feet of the top of that?

A. Yes sir.

Q. Well, did not that North levee then cause the water to be higher on ground?

A. Well, that is a question that I do not know. I think it would not have been much different if it had broken. My opinion is that it would not have made but a very little difference in the height of it if it had broken.

Q. I suppose the North levee

had broken up between 31st St.
and Brighton or the end of it
in the neighborhood of Brighton
Wherever that may be - sup-
pose the North levee had been
swept away would not the
water have discharged in the
City and relieved the lands
below the point of that break
from a good deal of the over-
flow? A It might
Mr. Cadwalader Reduced
the height? A It might
have reduced the height a little,
but I do not think it would
much.

Mr. Catlin Why?

A. The reason is I lived
on a street where the levee
broke at Rebel's Tannery in
1862. I was under the im-
pression when it first broke
that it would relieve us
considerably there at our
house of the water. And
I went out right away and
put up a mark and I
did not find that it

made a single bit of difference,
 you could not see the difference
 any more than if you took
 out a bucket full, you could
 not tell any difference, and I
 do not know but the same
 thing might happen now if it
 were to break.

I But suppose in 1861 -
 the old Astor house had
 not broken at all at Rabels
 Tavern and 31st St and 20th
 St. but had remained firm,
 would not that have pressed
 the water to a higher level
 over your land?

A I do not think it would.

Q You do not think so?

A No.

Q Can you tell me why
 you do not think so?

A. When the break was
 first made and after the
 second break at Rabelstan-
 nery, the water seemed to
 come gradually up toward
 my house - it was com-
 ing toward a street, it

Seemed to come toward me all the time toward the house and it is on high ground. I am living on pretty high ground when I live and I think the back water comes have been nearly as high on the outside as on the inside?

Q What back water

A The back water that came from the break at Rabely Tannery and from the water above that filled up this basin down in here

Q The back water from the City? A Yes sir, it came up, backed up toward me

Q After the City filled up then the water backed up?

A Yes sir, it was about as high on the inside as on the outside, and I do not know but what the same thing would occur this year if it had broken again.

Q How far as much water came down the American River in 1881, as

Came in 1862? A, I know
there was not

2. When did that break oc-
cur that you speak of in
1862, in Dec. 1861 or Jan-
1862? A Well, I do not
recollect. It was in the
winter, I do not recollect
the date, I think it is very
in December, I am not
certain. I have the date
down

I was there not two periods
of time during that winter
taking the month of December
and January as being part
of the winter in which the
City was not entirely
overflowed?

A Well, I guess there
was. The period my house
was pretty much all the
time that winter

I did not see the levee, either
the North levee or the A
street levee give way
along about the 9th of Dec-
ember 1861?

A I should judge you
are correct, I do not
know exactly the date.

I think it was about that
time though

2 I am asking you whether
it was about the 9th of
December or the 9th of Jan-
uary? A There was high
water all winter, there and
then was a good deal of the
time that the people came to
my house in boats and went
across the Amazon River,
but I do not recollect the
date, but I recollect that
we were badly flooded all
winter. I recollect that
very distinctly

2 Was you well affected
there, the water by what
is called the dry season and
the wet season, is it
higher or lower or does it
keep uniform?

A In the ~~wet~~ season it
is full, when the river
is high it is full of water

Q Well, you know what we ordinarily mean when we speak of a wet season or a dry season? A Yes sir.

Q Does that affect your well, the variation in the seasons? A Well, yes. When the water is really low it is lower in the well, but it stands about the same thing in the summer time about 16 feet. I have got a pump in it and I know about the length of the pump and I look down in the well occasionally. We use it for stock we do not use it for any thing else. You can not use the water.

Q Is it about 16 feet down to the water?

A I should judge that at this present time.

Q At low water?

A At low water.

Q In the summer season?

A In the summer season.

Q About 16 feet down to the surface of the water?

A Yes Sir.

Q. And how deep is the water?

A Well, the water is down the balance of 23 feet down to the well — it is about 12 feet, I do not know it may have filled up some, the well may have filled up some because we have not cleaned it out. We have always had plenty of water.

Q Are you in the Neighborhood of the Woollen Factory?

A Yes Sir.

Q How close? A Well, the Woollen Mill is between B and C on 16th.

Q Just state the distance, in yards or feet?

A Oh! about 1200 feet.

Q State whether the waters used by the Woollen Factory have affected your well in any way?

A Oh! I do not know.

Q We do not use it, we never drink the water. We haul our water from the City to use we can not use the well water.

Q It never was used for drinking purposes?

A I did when it was first dug. It was splendid drinking water at that time, it was excellent water, but since the flood of 1862 it is not good for any thing at all.

Q It has not been good since 1862?

A No, it is alkali or something the matter with it.

Q You do not know whether it is affected by the sewage water of the Woolen Mill?

A No I do not think it is. Mr. Cadwalader I object to that. There is a twenty foot levee between the two.

A The Woolen Mill is on the opposite side of the big levee, and I am on the other side of it.

Testimony

E. G. Robinson

Recalled

Mr Cadwallader Specimen
number two just take
it in your hand, did
you take some samples
at Iowa Hill?

A. I did.

Q Produce them?

A. (The witness produces
two bottles marked Robins-
on samples 4 and five)

Q Where did five come from?

A. Iowa Hill.

Q What place?

A. That came from a
mine arietly north of
Iowa Hill.

Q What is it called?

A. I do not know the
name of the mine.

Q Is that what you
call hydraulic gravel?

A. Yes sir =

Objected to as leading =

Q Well what is it

A. I call it gravel, It is composed of pebbles it is what I call gravel as I know it, blue gravel Mr Catlin Which are you speaking of

A Sample Number five
Q Where was that taken from?

A. That number five was taken from a mine directly north of Iowa Hill Mr Cadwallader Did you take it? A. I did

Q Did you go in the pit?

A. I did

Q Is that an average sample? A That would be an average sample that is the great proportion of the bank being washed
Q What is the next that you have got there?

A. That is number four. It was taken from Independence Hill.

Q Where is that?

A. It is you might properly

Call it part of the Iowa Hill mine it is half a mile up from Iowa Hill

Q What is the material?

A. It is the same I can not see any difference

Q Did you take that yourself? A I did

Q What do you say about its being an average sample?

A I say that it is an average sample

Q What do you say about number two being an average sample of the bank?

A. Number two I took from a mine at Gold Run, I think it is an average sample of the bank

Q That is the bank that is being washed

A. Yes Sir

Q Have you had any experience in hydraulic mining? A I have, a little

}

Cross Examination

J.
E. G. Robinson

Mr Collin As I understand
Exhibits four and five
are from Iowa Hill?

A. Independence Hill and
Iowa Hill yes sir,

Q And number two is
from Gold Run?

A yes sir,

Q How far is Independence
Hill from Iowa Hill?

A. It is from a half to
three quarters of a mile
there is a low place in
the ridge that divides
them, what they call the
two Hills,

Q Is not ~~the~~ number four
that you intend to des-
ignate as blue gravel
instead of number five—
look at that; one appears
to be yellow and the other
blue?

A. No there is no material
difference as I see.

it varies a little all through the bank some would be a little bluer than others And some would be colored a little more yellow than others

Q But you designate the two specimens four and five generally as what are called blue gravel?

A. Yes sir what I know as blue gravel from all those mines

Q Did you take this material that is in number four all from one place?

A. Well in the neighborhood of one place, where I could pick it out in the bank close together that is you might say, yes one place.

Q Did you also take number five from one place in the bank?

A I took it from one place just what I considered the average of the

bank,

Q You considered the two
 places from which you
 took those specimens as
 a fair sample of the whole?
 A. Of the whole with the
 exception let me state that
 there are none of the larger
 Cobble and gravel in that
 sample that there is in
 the bank.

Q This specimen of the
 fine material?

A. Yes sir the bulk of it
 I would say

Q Of course it is evident
 that there is none of the
 coarse stuff there, now
 I observe a marked differ-
 ence in the color, one
 looks yellow and the other
 looks blue is there not
 a very marked difference
 between the mines from
 which you took those,
 the Independence Hill
 specimens and the Iowa
 Hill specimen?

A. The Independence Hill
and Iowa Hill,

Q Generally the two are very
much alike in color?

A. They are very much
alike, there are places
in that that vary a
little in color

Q Those specimens have
not changed color by being
put up in glass bottles
have they?

A. Well I do not know
that they have.

Q Well what is the essential
difference which you observed
between the specimens that
you obtained from the Gold
Run and those which
you obtained from Iowa
Hill and Independence
Hill.

A. I do not observe any
special difference more
than a little difference
in the color

— — — — — " — — — — —

Testimony
of
James H. Watt
Called for Plaintiff Sworn

Mr Cadwallader Have you
been the City Tapper of
this town since 1870? }

A. I was assistant in 1870

Q Either the Tapper or ass-
istant Tapper? }

A I was the assistant from
1870 to 1875 when I became
City Tapper.

Q Then you have been
tapper since? A Yes sir.

Q What are your duties?

A. Well my duties are to
insert the taps in conn-
ection with the surface
pipes, lay all the main
pipes set the hydrants
and keep everything in
repair and in fact
it is general supervision
of all the pipes and
everything outside of the
engine room;

Q Where does the City take her water from what part of the Sacramento River?

A. From the foot of I street

Q What do you call the pipes that run from the works to the Sacramento River?

A. That is called the suction pipe.

Q I will ask you if you know if at any time those pipes becoming full of sand if so when?

Objector to as leading—

Q This is a single occasion in ten years, I ask him if he knows— I am directing his attention to a single circumstance that occurred at some time within the range of ten years— did you ever know of the suction pipe getting full of sand, if so state what the circumstances were and all about it?

A. I do remember on one occasion the suction pipe

to the best of my Knowledge
and belief was filled up,
that is the lower end of
it with sand or sediment
I Well state all the Cir-
cumstances

A. Well it was along in
1871 or 2 I would not be
positive the engineer woke
me up in the night time
his pumps had stopped
and he could not get any
water, he did not know
what was the matter, I got
up and we commenced
to examine the pumps and
the pipes, Finally we went
out to the River, there
had been very heavy rains
the first freshet came
down and the River raised
very rapidly in the night
and we commenced to
raise the suction pipes
and after we had raised
them up I would judge
4 or 5 feet, I could not
tell it was in the night

time and very dark, we
got water.

Q What River was up at
time?

A Well I would judge
it was the American
it was the first rains
we had, the first high
water, The American
generally comes down first

Q What Change have you
noticed in the condition
of the water since you
went there as assistants
tapper in 1870?

A. I think the water is
growing muddier and
dirtier every year.

Q What was the condition
of the water this year
after say the first of
June?

A. Well I think the water
was comparatively clear this
summer to what it has
been other seasons, I
would not say about what
time it has become so but

Indubly along in June
 Q What was the effect of
 the muddy water on these
 pipes prior to say the
 Commencement of this year
 or the first of June?

A. Well it has the effect
 of filling them up very
 fast.

Q Well how fast?

A. I cannot tell exactly
 at the rate they are filling
 up.

Q Well how full would
 they get?

A. I have seen some pipes
 that were I think three
 quarters full of mud, about
 that.

Q What kind of pipe?

A. Three and four inch
 I have seen here larger
 pipes that were filled
 up pretty well but not so
 full.

Q What kind of Crusting
 were there on the pipes?

A. It seems to bake —

it seems to bake down in the pipe and get encrusted in there. The pipes run somewhat inside and this sediment gets baked down in there and it is very hard to remove.

Q What is the deposit as you get away from front street?

A. We get heavier matter in the pipes down near the works and as we get further up town it gets lighter.

Q What has been the effect of what you call comparatively clear water of this year upon the mud or sediment or whatever it is in the pipes?

A. Well it is much easier to keep our pipes clean with clear water than it is otherwise.

Q Well how has it been this year what has occurred on the inside of the pipes.

A. I do not know that I have heard any complaints or trouble about scarcity of water this year. I believe we have had plenty of it.

Q How full at times would your pipes get in the Neighborhood Day before this year?

A. Well I cannot tell the amount of mud that would settle in there but they get quite muddy near the hydrants and required to be blown off every few weeks.

Q What would you get from the first blowing off?

A. We generally get a very dark colored mud and after that we get sand or sediment.

Q How many miles of water pipe has the City got affected to or immaterial?

Mr Cadwallader I want to

Show that there is 25 miles of it and it is all affected in the same way ? =

Q How often do you have to clean the pipes in high water season ?

A. We aim to do it about every four or six weeks if circumstances will permit if we have no other work to prevent us.

Q Well what do you get when you clean up

A We get sediments and sand some places a great deal of sand.

Q Give us some idea of how much sand you get out sometimes from one hydrant say in the populous part of the city where your pipes are large

A. I think in some hydrants near the water works I think we get out almost a wagon load from one hydrant.

Q Of what ?

A Mostly Sand - Sand and Sediment together.

Q How long would it be open ?

A. We would have to run some of them as long as 25 or 30 minutes.

Q I will ask you whether or not you are able to tell without seeing whether there has been a rise in the American River or not ?

A. What is that

Q I will ask you whether the condition of the water in your pipes enables you to tell whether there is a rise in the American River or not, or an outflow of that water ?

A I would be unable to answer that question except the first rise in the river I believe that it comes from the American River.

Q I will ask you if you know anything about the

formation of a bar in front of the suction pipes of the City and how it was taken away?

A. I remember at one time there was a bar shoaled in at the foot of the suction pipe and we had to get the steamer Dover there to lay there and keep up steam and keep the wheel paddling there for something like two days and kept it stirring up the mud and sand to work it out

Q How full on an average of have your four inch mains throughout the city been filled up with sand?

The Court It seems to me that this is quite indeterminate; there is no objection

Cross Examination
of
James William Watt
Mr Callin Just state what time of year it was when

the suction pipe was filled up with sand in 1871 and 2
 A. What time of the year did you say?

Q Yes what month was it in?

A. I could not say the month I do not remember.

Q It was some time in the winter? A The fore part of the winter I believe, I could not state exactly, I did not keep the date of it.

Q Do you know whether that sand came through the American River or down the Sacramento River?

A. I could not say positively.

Q You only judge?

A. Only from my judgement the American River generally comes down first.

Q You form your opinion up the idea, the general idea that the American River rises more quickly than the Sacramento does?

A. Yes sir we generally

get the rise from that first
 Q What year was it that
 you had the steamer Dover
 there paddling water in
 front of the suction pipe?

A. If I remember right
 it was in the summer
 of 1876 or 1877 I cannot
 say which.

Q That was in the summer?

A. Yes sir.

Q How far did the pipes
 extend out into the River

A. In low water probably it
 is from the waters edge
 out 30 or 40 feet.

Q From the natural bank
 A. From the edge of the water
 at any low season it is
 probably 30 or 40 feet

Q And the pipes are
 arranged so that you
 can raise or lower them?

A. The suction pipe a part
 of it is what we call a
 knuckee joint that we raise
 and lower it with

Q You can raise and lower

the end of it ?

A. Yes sir

Q So that when the water falls in the River you can let it down and when it rises you can raise it up ?

A. Yes sir

Q At this time your pipe in 1871 or 72 had remained I suppose a certain length of time in the position in which it was, at the time the sand got into it and when this sudden rise occurred and the sand obstruction occurred you then raised the pipe did you and that relieved it from the sand ?

A. Not in that part of the year.

Q In 1871 and 72 you raised the pipe up

Q Above the sand ?

A. We raised it after it

got buried in the sand
first

Q If it had got buried
in the sand you raised
it up above the sand

A. We raised it high enough
so that we could get water

Q Now I will ask you
whether you know as a
matter of fact that the
Spring Valley Water Works
in San Francisco are troubled
very much in the same way
by sand sediment getting
in the pipes?

A. I do not know a thing
about the Spring Valley Water
Works

Q You never acted as
tapper down there?

A No Sir

—//—

Testimony
of
L. J. Bassett

Called for pt. fl.

Sworn

Mr. Hart What is your ac-
cupation? A Civil En-
gineer and Surveyor

Q Do you occupy any offic-
ial position? A I am
acting as City Surveyor, City
Engineer at present of the City
of Sacramento.

Q Have you ever been called
upon officially to make a
profile of the American river
from its mouth to Brighton?
A Not from its mouth to
Brighton.

Q Where from? A The
Elevation that I have taken re-
cently was, from Roney's
Sand hills about opposite
Brighton over to where the
North levee comes to a terminus

Q Do you know how much
higher the American River is

at the point where you commenced than it is at its mouth? A That varies with the amount of water that is flowing in the Sacramento River

Q Well, I mean the bed of the river? A The bed of the river I can say nothing about

Q Well, at low water mark?

A All that I can tell you is at the stage at which the water was at the time which I took those levels.

Q When was that?

A That was the 7th or 8th of this month

Q What was the difference at that time? A About 20 feet

Q Twenty feet rise?

A Twenty feet rise in that distance, from the foot of the street. I can not say exactly as to the mouth of the American that is probably a foot

Q From the level of the

Water at the foot of K Street
to the level of the water —
a {Inty} at this point, at
Ronnys Sand pile

2. What is this profile
{Diagram shown}

A It is a profile showing
the surface of the ground,
following the line from the
American river, on Ronnys
place where the sand deposits
have been made across to
a point near Dryden Station
where the Sacramento City
levee comes to an end

2 Now can you explain
the figures so that the
Court can understand it by
a mere examination, in case
we find it necessary. Just
explain the figures.

A This point marked Amer-
ican River is the point from
which I started taking my
levels. That is the surface
of the water at the time,
that day on the 7th of Dec-
ember. This contour line

here shows the surface of the ground from that point across to Station 9; it crosses the Sacramento and Placerville Rail Road; Station 100 crosses the Western Pacific. On that point the line follows toward the City of Sacramento on the south of the Western Pacific in the direction of the County Hospital. I ran a level down from that point where it crossed a slough that leads into Burns Slough.

2 Now I will ask you this question generally, state whether or not you made any calculations from which you can state to the Court, what the effect would be of raising the bed of the river one foot higher at the point where Roaneys Sand Piles are.

The question is objected to as being a matter of conjecture.

The Court. It would be less

Objectionable to ask him the effect of raising the surface of the water above the other floods

Mr. Hart. What would be the effect of raising the surface of the water, one foot above the flood line of 1881 in that country

The question is objected to unless the witness first shows that he knows where the flood line of 1881 was

Q. He then got it on the profile which shows the actual measurement — did you measure to find out where it was?

A. Yes sir

Q. Do you know when it was?

A. I do

Q. Well now, then, state?

The question is objected to and the objection overruled

A. Please & state the question so that I will get it

Q. What would be the effect of raising the surface of the water one foot above the

flood line of 1881, at that point? A. It would be to cause the water to overflow the Sacramento and Pacific Rail Road and the Western Pacific Rail Road, and as soon as it overflows those points it would spread in all directions almost, to the south, to the west and to the north west, toward Sacramento; there is no obstruction, and one line that I have shown there shows how it would run back toward Sacramento and into the city. The other shows how it would run back towards Florin.

How far is Florin from the river? A. I can not state how far it is from the river.

Well, it is on the Central Pacific R. R.? A. It is on the Western Pacific R. R.

How far would the water run before it comes find any obstruction? A. Toward

Sacramento it would find no obstruction. It would come right down through those lines that I have shown there into Burns Slough and into the City. In the other direction it would be intercepted by the Slough across the Country in the other direction, and those Sloughs would run the water off toward the basin below Sacramento.

Q Well, is there any obstruction down that way at all?

A There is no obstruction. It is a descending Country all the way.

Q Toward Plome as well as toward the County Hospital?

A Toward Plome; I only saw as far as the Slough which is shown here on the profile.

Mr. Cadwalader That profile is correct? A Yes sir.

Q You made it yourself from actual measurement? A Yes.

Q By request? A Yes sir.

Is it then directed by the City authorities to make it?

A I was directed by the Board of Trustees to take the levels and make the profile

and to appear here?

A Yes sir

Prop-examination
of
L. F. Bassett

Mr. Catlin Is that profile line on a direct line all the way from the beginning of it to the termination of it at the point marked, "bottom of creek leading into Burns Slough"?

A No sir, it is not a straight line

Is then your profile line starts from the river on Rooney's ranch at the water line as you found it on the 7th of December?

A Yes sir

Is the present month?

A Yes sir

Is and it runs directly in what

Course first? A I run
directly as is indicated there,
then different changes in the
direction —

Q (Intg) What course does
it run first — is the course
of that indicated on the map

A The direction with regard to
the points of the compass do
you mean?

Q Yes sir A No sir

Q This profile does not in-
dicate then the direction in
which you ran?

A No sir we simply ran
from one point to the other
as is shown

Q You ran on a direct line
how far? A I ran on
a direct line from the point
at which I started to Rooney's
house and then out into
the County road.

Q Then did you change your
course when you got to
Rooney's house?

A Slightly

Q Pending which way to

5024

the East or west?

A I am a little turned around it was cloudy and I could hardly tell whether it was East or west, north or South

I made an angle in the line how much of an angle? A. Well perhaps 20°

Q Then how far did you continue on a direct line after making that angle of 20° ? A. Until I came

to the County road or I do not know what the name of the road is. I think it is called the Jackson Road

I crossed the road leading to Polson and continued on a direct line until you came to the Jackson Road did you?

A Yes. This road that I came to was a road leading to Polson, that is, I suppose so. I never was at Polson myself.

2. You crossed a road leading leading to Polson and continued that road? A I continued in that road

Q You followed that road down? A I followed that road down

Q How far

A Until I came to a point that is marked upon the profile there is high water mark of 1881, and I believe it also states "leaves County road"

Q (referring) "Enter County road" and "leaves County road"

A That line is the most direct line that I could take

Q When you came up out of the road to Romney house, you came on a direct line from the river to his house?

A Yes sir

Q His house is on the highest ground that there is in that vicinity? A That is the highest ground that I crossed, I think there is higher ground

Q You turned an angle of about 20° until you came to the road leading to Polson?

A From Polson to Sacramento and from Sacramento to Pol-

from. I went toward Sacramento.

Q. Then you turned down toward Nolson?

A. Toward Sacramento.

Q. How much of an angle did you make there in your line? A. Well, very nearly a right angle.

Q. Then how far, about say, in rods or chains did you continue on that angle?

A. I can tell by referring to my notes.

I well, about. You need not be exact?

A. Well, I can not tell you about without reference to my notes.

Q. There is the point where you entered the county road and where you left it (diagram)?

A. I have the same thing here (notes) about 3000 feet.

Q. You followed the Sacramento and Nolson road for about 3000 feet in the direction toward Sacramento City at an angle of about

45°. Then when you left the county road in which direction did you go?

A I followed the road leading from Roney's house, up to the Folsom road and then turned and went on the road to the point where I left it.

Q You followed the fauna ment and Folsom Road down about 3000 feet?

A Yes sir.

Q Then which way did you turn? A. Toward the termination of the North levee.

Q Where was that? In toward the river?

A Away from the river?

Q And what angle did you make there about?

A An angle of 45°.

Q Well how far did you then run upon a straight line?

A The profile shows it all I state it approximately?

A Well about 2000 feet.

Q Well, how long did you continue then on that direct

line before you made another angle? A. I said I continued about 2000 feet.

I well at the end of that 2000 feet did you change your course again? A. Yes sir.

At what angle did you change it? A. Well, about 45° I suppose.

I well, to shorten it I will ask you to give me the full number of the angles that you made in this profile line from the American River on Roney's Ranch until you struck the Creek, leading into Burns Slough as marked upon this profile?

A. Four angles I believe.

2. Then that profile from the American River to the creek leading into Burns Slough is not a cross-section profile is it? A. It is a cross-section of the country, following those lines that are shown there plainly on the profile.

Q Does this show where these angles occur? A. It is immaterial as far as levels are concerned

Q I am not willing to take your opinion as to the materiality of it? A. Well, you misunderstand me. It is not a survey of the surface or of the plane of the country, the ups and downs.

Q You say that what you supposed to be the line that water would run in I suppose if that country should be overflowed?

A. I took the most direct course that I could without encountering obstructions towards the point to which I was going

Q Obstructions to what?

A Obstructions to the survey

Q I supposed your object was to seek points that would not present obstructions to the flow of water?

A There would be no obstructions to the flow of water

in the line which I took nor
in any other direction which
you might go, from the point
in which I started, to the
point at which I ended,
that is the point at which
I stopped on the North levee.

2 Why do you make so many
changes in the line of your
profile and so many angles
and some of them pretty sharp
angles? A Why did I?

I Yes sir? A Because it
was most convenient for me.

2 Does this profile indicate
the right is feet here — this
is on what is called Railroad
papers is not?

A Yes sir, the scale is marked
both horizontal and vertical.

It is at both ends — between
the vertical lines it is 100
feet and between the smaller
horizontal lines it is 1 foot.

2 They are not indicated here.
You failed to mark them
(Witness shows marks on pro-
file)

Q What do these distances mark-
 Es from zero? A 1000 feet.
 Each of the spaces is 100 feet.

Q Each one of the subdividing
 is 1000 feet? A Yes sir.

Q How did you ascertain
 the high water mark of 1881?

A I was out on the North
 levee during the high water
 of 1881 and I set stakes
 along at different points to
 mark where the highest water
 came. I also took memoranda
 from parties with whom I came
 in contact in that vicinity and
 they all agreed substantially with
 my own.

Q But yours - you knew where
 yours were? A Yes sir.

Q Because your marks were
 there on the levee? A Yes sir.

Q You did not need any in-
 formation from others in re-
 gard to that; did you depend
 on their information in regard
 to the high water mark of 1881,
 at the point marked here "Leane
 County road" where you made

these words "high water mark 1881" - how did you ascertain the high water mark at that place? A. At that

point I obtained it from a party living there in the neighborhood, although it agreed exactly with my own.

Q. How does it agree. You never stake it out there, did you?

A. Well, it is directly opposite to my own, the water is supposed to be level.

Q. Is running water level?

A. At right angles to the water it is practically level, not exactly.

Q. Now you say that it is your opinion that if the water should rise in the American river at the point where you commenced this profile, that it would overflow the country and if it raised one foot higher it would come into this city?

A. I do not state it as my opinion - but I know that it would.

Q. You know that it would - would not the North levee be of any use?

A. Not at that point.

Q How high did it come up on the north levee near Rooneys Ranch last winter in 1881?

A. Last winter in 1881

A. The north levee does not extend to Rooneys Ranch?

Q Well I see the point — I am speaking of the point at east of Rooneys Ranch! Say pointing to the city the levee is half a mile or a mile from Rooneys, now at that point how high on the levee was the water last winter?

A. At the point to which the north levee comes to an end and runs down to the level of the plain.

Q The levee dont fall the plane rises up?

A. No Sir. The levee falls to a level with the plane the plane was 8 or 9 feet below the top of the levee. The levee ran right down when you came to the end

of it so that water could go right around the end of the levee just as a cow can go around a fence where there is no enclosure

Q Well up to the point where the levee terminates does not the levee maintain a uniform grade?

A. Yes sir very nearly.

Q Now at the points on the levee all the way from above Smiths garden to the end of the levee how high did the water come against that levee last winter?

A. It came different points within 7 or 8 feet of the top.

Q What is its usual height above the natural surface?

A. The levee?

Q Yes sir.

A. Well there is considerable variation, that is high ground and low ground

Q I ask you what is its usual height in ordinary

Places - I do not refer to where it crosses deep sloughs?

A. Well it will average probably at the further end the last two or three miles 18 feet, some is as much as 24 feet.

Q 24 feet high?

A. Yes sir

Q And it will average how much?

A. Averaging about 18 or 18 feet

Q What does it average here in this city?

A. It is less at this end I suppose it will average from 12 to 15 feet it generally increases as you go east

Mr Cadwallader Have you got a profile of the city levees?

A. Yes sir.

Mr Catlin when the American River is very high. Suppose it scours our

its Channel and removes the bars in its course would not the water probably raise one foot higher than it was. }

The Court He was not permitted to go into that I believe

Mr Collin I will withdraw that question - do you know what the high water mark was in 1861 and 62 }

A: No Sir =

Objected to as not
Pross examination =

Q You say that on the Seventh of December there was 20 feet difference in the height of the top of the water at Rooneys Ranch and the top of the water at the foot of K Street }

A: Yes Sir.

Q You take the height of the water as it measured on the gauge I suppose }

A Yes Sir.

Q What was that height
A I was not at the
gauge to see it myself
Q What height did you
assume?

A. Sixteen feet, The water
at that point is level
with what would be 46
on the gauge if the
gauge were extended up-
wards.

Q How is that?

A. The water at the point
at which I started is
level with what would be
at the point of 46 feet
on the gauge were extended
upward at that height

Q Then from the height
of the water at Rooney's
Ranch on the seventh
of December —

A. Let me refer to my
notes I do not wish to
state anything that is
not correct, It is 36
feet.

Q I simply wanted to see

What the exact difference in the height of the water at Rooneys Ranch on the seventh of december and the height of the water in the Sacramento River at K street was, if I understood you it was 20 feet?

A. Well it is not less than twenty feet assuming the water to be 16 feet at the foot of K Street it would be 20 feet I cannot say that it was sixteen feet that day, I am certain that it is not more than sixteen feet

Q In what manner did you ascertain that difference how did you get at it?

A The difference in the height

Q Did you level it all the way down to some known point?

A. Not on that particular day I did not but previous times I have

established bench marks all over the city which all referred to the gauge at the foot of Kth Street.

Q Then did you level it down from that point to some established bench mark in the city?

A. Yes sir not in the city but a bench mark that I had established in running out from the city which was located there at Brighton a bench mark that would be proved and checked.

Q You have a bench mark by which you know the difference in the level at Brighton and the levels here in the city?

A. Yes sir

— — — — — // — — — — —

"Plaintiff offers the profile of the City levees, subject to defendant's Examination, and plaintiff rests, reserving right to put in any evidence that may have been overlooked. Recross till Monday 9 am

In the Superior Court
of the State of California
in and for the County of
Sacramento.

The People of the State of California	} Morning Session Monday Dec 12 th 1881
vs. The Goos Run Ditch and Mining Company	

Transcript of Testimony
Val.

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J. L. Jones	direct	5046
"	Crop &c	5135

Winfred J. Davis
Official Reporter

In the Superior Court of the
State of California in and for
the County of Sacramento.

The People of the State of California vs.	} Morning Session Monday Dec. 12 th /81
The Good Run. Ditch And Mining Company	

Testimony
for the
Defense.

Remarks
and
Motion to amend Complaint.

Mr. Byrne - If Your Honor please,
We have concluded to dispense
with an opening statement, partly
for the purpose of saving time,
and partly because our defense
is sufficiently outlined by the
answer in the case, and as we
think there fairly presented.

Mr. Hart - Before the final conclusion of this case, on our side, I would like to amend the form of the complaint. I speak this without consultation with any of my associates. I have come to the conclusion that a slight verbal amendment to the complaint ought to be made. Simply out of an abundance of caution. The allegation in the answer is that (reading). I want to show that this is the property of a great number of citizens. That is on page five. (reading).

Mr. Byrne - What subdivision?

Mr. Hart - Subdivision (). Where the allegation in reference to this land comes in, I want to show in each instance that the lands are owned by a great number of citizens. Making the complaint conform to the proof in the case; merely an interlineation in the form of an amendment will be sufficient.

Mr. Belcher - We have no objection. Unless the answer needs amendment on account of it. In that

case we shall ask the same privilege of amendment.

Mr. Hart - Certainly.

Mr. Byrne - You want an interlineation stating that this is the property of a great number of citizens.

Mr. Hart - I may use the words: "a great number of citizens" or I may use the words, "a considerable number of citizens". I want simply to show that the property does belong to more than one citizen.

Mr. Byrne - To many citizens.

Mr. Hart - Yes sir.

Mr. Byrne - We have no objection to that, Your Honor.

Mr. Hart - Whenever the allegation refers to the property of a citizen here, I want to insert that language or that amendment.

Mr. Byrne - The words, "many citizens" would cover it all.

Mr. Hart - I may use one set of terms or another. I may say one hundred or one thousand citizens so as to show that the property belonged to a great number.

Mr. Byrne - If you should say a thousand, that would not conform to the proof.

Mr. Hart - Well, I might say hundreds of citizens. I think: "a considerable number" or "a great number of citizens", would be sufficient to cover the testimony. But before determining as to the exact language of the amendment - I have given a general scope of it - I would rather see my associates

Mr. Belcher - Now you simply give notice that you will make such an amendment? or move to make such an amendment?

Mr. Hart - No sir. I ask his Honor now to permit me to so amend.

Mr. Belcher - Well, we want the language fixed now, then. I think we should have the language exactly as they proposed to make it; or about that.

Mr. Byrne - Certainly. At any rate before we consent to the amendment.

Mr. Belcher - And we shall

desire, if necessary to amend our answer to conform to any amendment ~~that~~ they may make. In commencing our case now, it is understood that we reserve the right to cross-examine Mr. Hall, when he does come.

Mr. Hart - I will put in the words "a considerable number," as the exact language.

The Court - Very well, Proceed with the case.

Mr. Byrne - Mr. Gould will be our first witness.

The Court Mr. Gould, take the stand.

Mr. Byrne - We ask leave to make our denial in the answer, in paragraph seventeen, conform to the amendment that has just been suggested.

Mr. Hart - Yes sir.

Mr. Belcher - And to so amend whenever that language applies.

Mr. Hart - Yes sir.

The Court - Yes sir.

Mr. Byrne - We have denied

this allegation, under the provision of the code which gives us the right to deny all that of which we have no sufficient information or knowledge to found a positive belief or denial on.

Testimony
J. L. Gould.

Direct Examination.

Mr Byrne. Where do you reside?

A. At Dutch Flat.

Q. What is your occupation?

A. Superintendent

Q. What kind of a superintendent?

A. Mining Superintendent.

Q. Of what?

A. Of the Gold Run Ditch and Mining Company.

Q. Of the Gold Run Ditch and Mining Company?

A. Yes sir.

Q. How long have you occupied that

position?

A. About eleven years.

Q. When did you come to California?

A. In 1856, in the month of March.

Q. When did you first engage in mining?

A. In March 1856.

Q. Where?

A. On the South Fork of the American river; at a place called, Sucker slide.

Q. Where did you next mine?

A. At Gold Hill.

Q. Where is that?

A. In Eldorado County, about five miles from Coloma.

Q. When was that?

A. In April of the same year.

Q. That was in 1856?

A. Yes sir.

Q. When did you first go to Gold Run, or in that neighborhood?

A. I went to Gold Run in December 1860.

Q. December 1860?

A. Yes sir.

Q. Had you mined at any other place between 1856 and 1860?

And if so where?

A. Yes sir. At a place called Shingle Creek near Coloma. And at Placerville; in the vicinity of Placerville at Clay Hill and at Smith's Flat.

Q. What has been your occupation all the time since you have been in California?

A. Mining.

Q. When did you first know the property described as the property of the Gold Run Company in this case?

A. In 1860.

Q. State your first connection with that property, and how it came about?

A. I attended the Ditch from the winter ^{of 1860} or from 1860 until 1865. And the men that owned the Ditch then sold out, and I took charge of it as superintendent.*

Q. What Ditch was that?

A. That was the same ditch that is now called the Gold Run Company's Mining Ditch.

Q. Who were the owners when you

first took charge of it?

A Bartlett and Thomas.

Q At what time did they dispose of their title to that Ditch, and to whom?

A They disposed of it in July 1865, to Hall and Hubbard of Auburn.

Q How long did Hall and Hubbard remain owners of it?

A Until December 1867. Then they sold out to a company of miners and myself; and it was then styled or called by the name of 'the miners' Ditch Company.'

Q Was that organization a corporation or a partnership?

A It was a partnership.

Q Not a corporation?

A No sir.

Q When was the Gold Run Ditch and Mining Company incorporated?

A In August 1870.

Q When did that Corporation become the owner of this property that you speak of?

A In 1870.

Q Soon after its formation?

A- Yes sir.

Q- What was the capacity of the old Bartlett and Thomas Ditch?

A- It carried four hundred inches, when I went there in 1860. It was soon enlarged to twelve hundred inches.

Q- At what time was that?

A- In 1861 or 1862, I think, it was enlarged to twelve hundred inches.

Q- What was the length of that ditch?

Mr. Hart - When did you say that enlargement was made?

A- In 1861 or 1862.

Mr. Byrne - What is the length of that Ditch?

A- The ditch then was about fourteen miles long.

Q- After the purchase of that ditch by what was known as the Miners Ditch Company, what was done in regard to it? What was done in reference to that ditch after the purchase of that property by the miners Ditch Company? was

anything done?

A. Nothing was done by the miners Ditch Company. Only to work it.

Q. After its purchase by the Gold Run Ditch and Mining Company what was done?

A. They then went on to improve it. They extended the ditch to the Yauba river. And also enlarged the lower ditch to the capacity of 2150 inches.

Q. When was that extension made?

A. The extension was built in 1870. The enlargement was made in 1871.

Q. How much money did that cost?

A. It cost fifty thousand dollars.

Q. How much did the Gold Run Ditch and Mining Company pay for that ditch?

A. Fifty thousand dollars.

Q. How much did they pay for the mining property they acquired in connection with it?

Mr. Hart - What are you referring to?

The witness: Do some memorandum.

Mr. Hart: Made at the time by yourself?

A - No sir, made lately.

Mr. Hart: I do not think he has any right to make any reference to that.

Mr. Byrne: What memorandums are you referring to?

A - One taken from the books

2 - From the books of the company?

A - Yes sir.

Mr. Byrne: I suppose you have no objection to that.

Mr. Hart: It is objectionable; but I don't care much about it.

The witness: And from deeds that are right here, to be shown.

Mr. Hart: The deeds may not correctly state the consideration.

Mr. Byrne: I want the actual consideration. That is what I want. Do you know the amount that was paid for these properties?

A - Yes sir, I do.

2 - That was during the time of their organization and your superintendence of this property?

Cost of property

A - Yes sir.

2 - Did you take part in the negotiations resulting in their purchase? In the purchase of that property?

A - I was a party to it.

2 - And do you know that the amount of money that you were about to state, was actually paid when that property was bought?

A - I do.

2 - Very well; state what was paid?

A - Two hundred and fifty-three thousand dollars. For the purchase of the mining lands and reservoir sites and timbered lands for blocks in connection with that property, and the ditch.

2 - Was that the original purchase? Or does it include all the purchases that were made?

A - It includes all the purchases since 1870. Since the formation of the corporation.

2 - It includes all the purchases since 1870?

A - Yes sir.

2 - How much was paid for the Indian Hill claim?

Mr. Cadwalader - You say that the corporation was formed in 1870?

A - I do.

Mr. Byrne - Do you doubt that?

Mr. Cadwalader - No sir. But I recollect that some mention was made of it in the answer, and it occurred to me that it was three years later, as stated there.

The witness - You have the certificate of incorporation right there. The Indiana Hill claim cost sixty thousand dollars.

Mr. Byrne - That is the claim which has been spoken of here so frequently?

A - Yes sir.

2 - And in reference to which the witnesses, for the plaintiff, have testified so generally and frequently?

A - Yes sir.

2 - It has been spoken of as the Gold Run claim?

A - Yes sir.

2 - You know it as the Indiana Hill claim?

A - Yes sir. I know it as the Indiana Hill claim.

2 - Do you know when that claim was

located?

A - I do not. It was located when I went to Dutch Flat. It was located before I went there, and was being worked at the time I went to Dutch Flat.
 Q That was in 1860?

A - Yes sir.

Q From that time, when you first knew it in 1860, has it been continuously worked?

A - Yes sir.

Q In what manner?

A - By the Hydraulic process.

Q - When your corporation purchased that claim, what was its condition as to previous workings?

A - Well, the top strata of red gravel was mostly all washed off.

Q - Mostly all washed off?

A - Yes sir.

Q - What was not washed off? What part was not washed off?

A - A small portion in the East mine, next to Canon Creek.

Mr. Hart - When was that all washed off?

A - In 1870 or 1874.

Mr. Byrne - It had been washed

Private.

5055

before you purchased?

A - Mostly all.

2 - Describe that portion of it that remained?

A - It was on the east rim, next to Canon Creek.

2 - How much? I mean: was it a small portion or a large portion?

A - A very small portion. A very small portion.

2 - When was that worked off, if at all?

A - It was ^{partly} worked last Spring.

2 - That portion was worked off last Spring? Does any portion of it still ~~remain~~ remain?

A - A very small portion; that amounts to nothing, comparatively.

2 - Do you remember the time when the South Yuba ditch was extended to the Gold Run District?

A - In 1864.

2 - On the South Yuba Canal?

A - In 1864.

2 - Prior to that time, to what extent had the mines of the Gold Run mining District been

worked?

A- Well, they were worked on a small scale. There were two ditches running in there at that time. I suppose some two thousand inches of water were in the two ditches. About two thousand inches in the two ditches.

2- What ditches were they?

A- They were then known as the ^{Bartlett} and Gardner's Ditch and the miner's ditch.

2- That was the Bartlett and Thomas Ditch?

A- At that time it was the Bartlett and Thomas Ditch; in 1864.

2- After the time when the South Yuba Canal was extended to Gold Run, to what extent were the mines worked there? and in what way?

A- They were worked very extensively from 1865 up to 1873 and 1874.

2- State how extensive? Describe to the court what was being done there at that time?

A- Well, there were from 26 to twenty eight claims at work there. Some times thirty. Using from six to seven ^{thousand} inches of water every twenty four hours; night and day work.

Mr. Hart - That was the Cold Run mines?

A- Yes sir.

Mr. Byrne Well? I understand you to say that they were running constantly. some six or seven thousand inches of water night and day?

A- Yes sir.

Q- What was the character of the material that they washed out?

A- Very light, loamy; it washed off very free.

Q- Was not powder required to break up the banks at that time?

A- No sir; no powder was required for that purpose at that time.

Q- How ~~were~~ were the banks washed down at that time?

A- By piping against the banks, without the use of any powder.

Q- What was the grade of the flume in

this district?

A - From ten to 12 inches, to twelve feet.

2 What was the usual head of water used by each of these thirty companies you have spoken of?

A - The amount varied. all the way from 150 to 300 or 400 inches.

2 - By each company?

A - Yes sir.

2 - Will ask you if it was usual for some of these companies to use more than one head of water during that time?

A - Yes sir.

2 - State how many? I want you to give an idea of just what was going on there at that time.

A - There were two companies that used two heads of water. One was Goselaud Ravine Company. And one was what was known as the Bay State, Number one. They used some four streams. That was about six hundred inches of water at that time.

2 - Into what place or what creek was this material discharged?

A - Into Canon Creek.

Q - And where did that lead to?

A - To the North Fork of the American river.

Q - How much water did you say was used, night and day, during these years? Since 1865 to 1873 and 1874?

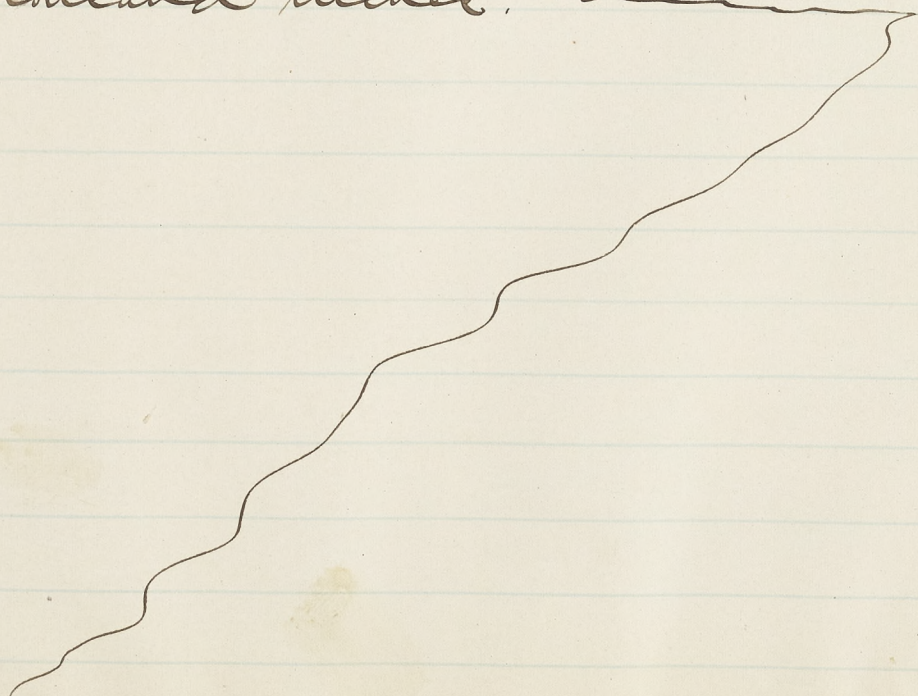
A - From six to seven thousand inches.

Q - Or I will let the witness fix the date? I think it was about 1874? I don't know exactly?

A - About 1874.

Q - About how much water was used? You estimate it at about sixty two hundred inches?

A - I think from six to seven thousand inches.



Q. About how much?

A. I estimate about 6,200 inches - I said from six to seven thousand inches - I estimated about 6,200.

Q. During how many months in the year was that used upon an average?

A. It varied. I should judge about five months in the year it would average.

Q. Has the surface of the mining claims in that district been washed off - of the claims in that mining district?

A. Yes sir.

Q. Prior to what time was that accomplished?

A. It was about all washed off in 1874, very little remaining.

Q. To what depth were the claims then washed on an average?

A. I think they would average from 70 to 80 feet the top washing.

Q. What is the length of the ground that was thus

washed, about?

A It is about 13,000 feet.

Q What is the average width?
A I estimate about 1800 feet in width.

Q Speaking now of the top washings. The width I did not hear?

A About 1800 feet I suppose.

Q About 1800 feet wide?

Have you made any estimate as to the quantity of material that was removed prior to 1875 by the surface washing there in Cubic yards?

A Yes sir, I did.

Q What do you say it is?

A I estimate it about 67,000 Cubic yards.

Q 67,000?

A 67,000,000, I would say.

Q You said 1800 feet. I understood you to mean the average width?

A The average width as I measured it.

Q Is it at some places wider than that?

A. It is at some places a good deal wider and at other it is narrower

Q. This 67,000,000 yards that you speak of went into Canon Creek? A. Yes sir

Q. And thence into the American River? A. Yes sir

Q. That was prior to 1874?

A. Yes sir, I would say, excepting that portion of the Indiana Hill claim went in what is known as Indiana Hill Ravine and thence into the North Fork

Q. And it still went into the North Fork?

A. All went into the North Fork.

Q. Did I understand you to say that was done before you became the owner of that property? A. Yes sir

Q. Did you ever run a tunnel there? A. Yes sir

Q. A deep tunnel?

A. Yes sir

Q. From what point?

A From a point in Canon Creek about $\frac{3}{4}$ of a mile from its junction with the North Fork

Q When did you commence that? A In 1872

Q Why did you commence it, why did you run it?

A Because the top gravel was washed off, and we would have no place for our water unless we ran a deep tunnel for the deep channel.

Q After 1873 or 1874 at any rate, at the time you mention when the top was exhausted, was it possible to wash the ground any longer there without a deep tunnel? A No sir

Q A deep tunnel was necessary? A Yes sir

Q Prior to that time how had the washings been conducted, what was the outlet, the usual outlet?

A The outlet was into Canon Creek.

Q Through open cuts?

A Through open cuts, some places tunnels, short tunnel through the rim rock

Q What is the length of that deep tunnel of which you speak
A 2200 feet.

Q Through what character of ground was it excavated?

A Through hard bed rock.

Q How much did it cost to construct it?

A About \$96,000.

Q How long did it take to run it? A A little less than three years

Q What kind of machinery if any was used in its construction? A After the first year, what was known as the Burleigh drill

Q What is the size of that tunnel, the dimension?

A The main tunnel is 10 feet high and 12 feet wide. After it goes in 600 feet, then it branches to the Indiana Hill claim about 1600 feet of tunnel, that is 9 feet

high and 8 feet wide
Mr. Hart. That is the Indiana
 Still claim tunnel is 9 feet
 high and 8 feet wide?

A Yes sir. That is the branch
 from the main tunnel

Mr. Byrne How long is the
 other branch if there is an-
 other?

A. The other
 branch is about 1000 feet.

Q The same size?

A The same size

Q What is the grade of that
 tunnel?

A It is 6 inches
 to 12 feet.

Q When did you first com-
 mence washing through it?

A In the winter of 1875-6

Q When did the Gold Run
 Ditch and Mining Company pur-
 chase the Indiana Still
 Claim?

A I think it was
 in the winter of 1874

Mr. Byrne We propose to
 introduce this map which
 is marked "Map of Gold ^{Run} Still
 Mining District" and we pro-
 pose to use it as a diagram

and we will prove its accuracy later. Point out on that map the Indiana Oil claim?

A This is the Indiana Oil claim marked Indiana Oil

Q Point out to the Court the various properties there belonging to the Geo Run Ditch and Mining Company?

A This line here represents the Indiana Oil mine right here so marked.

Q What is that that is marked 'bottom bench' and described by a blue line?

A That is the blue gravel. This is washed to the bed-rock, & the end of this blue line

Q That is what has been described here by the Plaintiffs witnesses as the lower pit or deep pit, is it not? A Yes

Q Now point out to the Court the other claim belonging to the Geo Run Ditch and Mining Company?

A The next running up the

Creek is the North Star

Q Between the Indiana Hill Claim and the North Side does any other claim intervene?

A Yes sir, what is known as the Gold Run Hydraulic Limited is between.

Q How is marked on the map?

A. Marked Cedar Company here, and Shermans

Q. That property is known as the Gold Run Hydraulic Limited?

A Yes sir

Q. Then the North Star adjoins it on the south?

A. The North Star adjoins on the north

Q What is the next property belonging to your corporation, giving the name?

A. The next going north is the Gold Run Company, they own $\frac{1}{2}$ of that claim. The next is what is called the Church and Golden Gate, includes this and that (referring) so marked

Q And the next?

A. The next we call the

Taylor claim but it is composed of the Carter, Palmer, Sachs & Co, and Brown & Co.

Q That is now known as the Taylor claim? A The Taylor claim

Q What other property does your company own?

A The next north is the Benton claim, right here (showing)

Q Do any other claims intervene between those you have designated as the Taylor claim and the Benton claim?

A Yes sir. The Bay State No 1 and the Blue Gravel and the claim known as the Goodland Ravine claim

Q What other claims if any?

A The next north is the Starkness claim, and the Excelsior claim between the Benton and Starkness

Q Who owns the Excelsior claim? A. S. J. Walsey owns it

Q That property does not belong to the Good Run Ditch & Mining Co.? A No sir

I am there any other claim there that belong to it in that district - any interest in the Druid? a Yes sir, 75 interest in the Druid down here (showing)

2 It joins the Indiana Hill Claim? a. Yes sir, and also own $\frac{3}{4}$ of the Bay State No 2, and they own the Kear-Sarge Claim. Why I did not think of them coming this way was, because it was a side Claim on what is known as the run rock and has been washed out, and so I did not think to mention it as I came up.

2 Now I understand you to say that the surface or top stratum of all these Claims have been washed away, is that correct? a Yes sir.

2 Prior to 1874? a Yes sir.

2. To what depth did you say, 75 or 80 feet? a Yes sir. Mr. Cadwalader Have you got a crop-section of those old

workings, if so that would save
an infinite amount of Spec-
ulation as to those depths. I
merely suggest that you use your
Cross-Section instead of asking
the witness to speculate upon
the depth of a pit 1800 feet
long.

Mr Byrne. We have a map
and you are at liberty to ex-
amine it, if you please (handing
map to counsel).

2. Since what time have you
been washing off the bottom
stratum or the blue gravel as it
is commonly called?

A Since 1875 I think it is.

2 What is the difference in
the character of ~~that~~ material
as compared with the upper
bench? A Well, it is
very much heavier, different
material entirely.

2. Will you describe to the
Court the character of the
upper stratum commencing say
on the top and going down
40 or 50 feet say, to such a

point as it may change in character? A The top is reddish, gravel, sandy light material, and in fact the whole of the red gravel, known as red gravel is fine gravel, very few bones seen, hardly any that would be over from 4 to 6 inches in diameter, a very few of them.

Q That is you say in the first 50 to 60 feet? A Yes sir, I include the whole depth of the red ground.

Q How deep, say, in the Indian Hill claim, what was the depth to which that claim was washed before you purchased it? A Do you mean the average or the deepest portion of it

Q The average if you know?

A Well, I can only approximate, I can not tell the exact depth but I should say the deepest portion of it was washed about 149 feet

Q Can you estimate the average depth that it was when

you bought it? A Perhaps the average would be about 90 feet, I should say.

Q What was the length of that excavation?

A It is about 13.00 feet long.

Q And the width?

A I think the width that I first knew it was about 1600 feet wide.

Q Have you any samples of that top material here in Court? A No sir.

Q Can you now conveniently obtain them? A Well, I have sent for them and they were sent to the Clerk's office.

Q I would like to have you show the Court a sample of that top material? A They have not been sent up.

Q What proportion of that top stratum is hard rock or rock - what amount, how much or how little, a large or a small proportion I mean?

A Well, it is a small proportion of it, that is hard rock.

Q To what extent is sand to be found in that top stratum?
 A. There is a great amount of sand.

Q How much Clay is to be found there

A. Streaks of Clay all through it

Q What Kind of Clay

A. What is known as pipe Clay by the miners.

Mr Horst Is that in the top you say?

A. In the top stratum.

Mr Byrne. Now describe to the Court the Character of the bottom material or that material which you have been washing since you constructed your deep tunnel
 Mr Cadwaleader You mean the bottom of both pits or the stuff below the old surface washings

Mr Byrne I mean what is called the blue gravel - what is designated here as the blue gravel

Mr Harr do you mean to include it all from the top washings of this Company to the bottom - the entire pit
 Mr Byrne He has been describing first that which was washed away before the Company came ^{into possession} Now I want him to describe what has been washed since the deep tunnel has been constructed - was completed - I am requested to ask you again what the depth of the top washing, or this upper stratum, or take the deepest point?

✓ A. In the Indian Hill Claim
 Q Yes sir

x A. I estimated about 140 feet
 Q That was done before you became the owner of the Claim at all?

A. Yes sir.

Q Before the present Company became the owner?

A. Yes sir.

Q And what did you say that was comprised of

A. of fine gravel sand and pipe Clay and some Cobbles Varying from four to six inches, the largest of them.

Q. How frequent were those Cobbles of the size of which you speak of?

A. Very few

The Court I understand that is what he has been describing all the time.

Mr Byrne What is the average size of the pebbles that are there outside of the Cobbles that you speak of as being from four to six inches in diameter?

A. Oh the first fifty feet there is hardly any rock in it that will be over the size of a hens Egg, very few, mostly rock in it mostly what is known as rotten boulders, rotten rock or rotten quartz, it pulverizes, it washes off very easy and pulverizes.

I Describe to the Court

the Character of the bottom stratum, that which you have washed by your deep tunnel since it has been constructed?

A. That has been blue gravel heavy blue gravel, and about seventy feet of it is what we call Cement almost solid Cement, boulders and Cement.

Q Boulders and Cement, what portion of the 70 feet do you speak of now?

A Seventy feet from the bed rock

Q What is the bed rock composed of?

A. That is known as slate

Q Is there any granite bed rock in that country

A. I have never saw any

Q Have you examined nearly all the mines in that region, in that section of the country?

A I have been acquainted with all the mines there

I have sold water and have been in them more or less since I have been in Gold Run.

Q To what extent does your knowledge go of the mines or luteal fear which joins this Gold Run district are you familiar with those mines.

A. Yes sir I have been in them but I do not know as much about them as I do about the Gold Run district

Q Is there any granite bed rock or granite at all in that section of the country?

A. I never saw any.

Q. You know granite when you see it?

A. I do.

Q. What proportion of that bottom stratum is rock
Mr Cadwallader what do you mean by that

Mr Byrne I mean the material that has been washed through

the deep Tunnel - one hundred and forty feet of the surface you testify was washed by means of open Cuts into Indiana Ravine I think you said?

A. Yes Sir.

Q Then it became necessary to run the deep tunnel?

A. Yes Sir.

Mr Cadwallader I suggest that the gentleman ask what the Character is instead of giving it a name

Mr Byrne I presume it is permissible to distinguish the top from the bottom, I only want to call his attention to that portion of the mine which I want him to describe - what proportion of this bottom stratum is rock?

A. You include all the blue gravel do you not from the top of the bed rock?

Q Yes Sir?

A Well I think there is
from 75 to 80 per Cent -
80 per Cent of the ^{it} rock
from the size of a hens
Egg to boulders that would
square 15 feet

Mr Hart Seventy five to 80
per Cent from what?

A. From the size of a hens
Egg to boulders that would
measure or square 15 feet

Mr Byrne Do you mean
15 feet in diameter?

A. I mean it would square
15 feet

Q These boulders I suppose
are irregular in shape

A. Yes Sir they are mostly
washed boulders.

Q Where in the mine do
they most frequently occur

A. Near the bed rock some
times you can see rock
four or five feet in di-
ametre, 30 or 40 feet, 50
feet from the bed rock

Q How deep is that blue
gravel of which you speak

Which I called the bottom stratum?

A. On the Indiana Hill Claim I think it was about from 60 to 65 feet - I mean 160 to 165.

Q. Is it deeper in the Indiana Hill Claim than Else where?

A. Yes sir.

Q. How do you account for that?

A. The Hill is higher there than it was above, than it was North

Q. What Hill do you call that?

A. The Gold Run ridge.

Q. Has it any other name that you know of?

A. No.

Q. I mean the highest one?

A. Oh Indiana Hill point.

Q. Is not there another name for it is it not called Coal ^{Spring} water Mountain?

A. Yes sir it is in Coal ^{Spring} water district.

Q How high is that above the surface of the ridge the average surface of the ridge, the Cold Stream Mountain?

A. Well I should think it was 400 feet.

Q Quite an elevation is it not?

A Yes Sir.

Q Now you said that 75 or 80 per Cent of this bottom stratum was solid rock? A. Yes Sir

Q Suppose you take the lower 75 feet what percentage of that would be hard rock? A. Well it would be more than 75 per Cent I think.

Q. Or in other words it is harder as you approach the bottom?

A. The rock was larger in the lower portion than they are above, what is known as Cement

Q How deep is the Cement? A. I averaged the whole

bank to be from 75 to 80
per Cent of the blue gravel

Q Can you form an estimate
of the hard rock that
there is in the bottom one
hundred feet, we will say

A. Well there is a good
deal more rock than there
is above considerably,

Q How deep is this
stratum that you describe
as being cemented?

A. About seventy feet, it
varies from sixty to seventy
feet.

Q Can that be cut
with a pipe?

A. No sir.

Q. With water from the
pipe? A. No sir.

Q What means do you
employ to work it?

A. We blast it with powder.

Q Can it be worked in
any other way excepting
blasting it with powder.

A. No way that I knew
of to work it profitably

Q You have a sample of that here?

A. It will be here it is not here now.

Q. You spoke of large boulders what is done with those boulders?

A. They are blasted up broken up and run out
Q Run where— where do you run them to?

A. Down through into Canyon Creek

Q Where do they go from Canyon Creek

A. To the North Fork of the American River.

Q They do not rest in Canyon Creek I understand?

A No sir.

Q They go into the North Fork? A. Yes sir

Q Into what size pieces do you usually blast them. how big a piece in other words can you run through your flume—
= question objected to

Q Describe to the Court
just how the boulders are
broken up

A They are run through
sometimes rock that would
weigh 300 pounds probably
400

Q Is that the size in
which you usually blast it
or blast them or break
them?

A. They are broken up in
size from 100 to 300 pounds
they all run through
but they usually break
them smaller than that
to run through?

Q Speaking of this upper
stratum I understand you
to say that there is
pipe clay and sand
in that?

A. Yes Sir.

Q Is there any pipe
clay in the lower stratum

A. I never saw any

Q Is there any clay of
any kind

A None whatever.

Q In the bottom stratum?

A. None in the bottom, what is known as the pay streak of the Channel. On the east rim there is Clay and square boulders but it is never washed because there is no pay.

Q Now describe that formation on the east rim - State to the Court just its effect is in the Channel itself.

A. It is a stratum of Clay Comes in on the east rim that is about I think it must be about 100 feet deep - it forms really the east rim of the Channel, a kind of blue Clay.

Q Is it outside of the gravel?

A. It is outside of the gravel entirely and it never has been washed. We have got up to it.

✓ in one place. In sinking
down in the Channel we
sunk too far east towards
the east rim and got down
on to that Clay and it
claved in the boulders
and Clay into the Claim
and it lays there now.

Q. Does it overlie the gravel
or does it extend to the
bed rock?

A. I think it extends to
the bed rock

✓ Q. What kind of ^{clay} clay is
that?

A. Well it is a bluish
Clay I do not know hardly

Q. Is it what you call
pipe Clay?

A. No sir it is not what
is know as pipe Clay
among miners.

Q. You said there were
square boulders in it
what do you mean by that.

✓ A. Well angular, not water
worn more the appearance
of a ~~slabs~~ slab of rock

Q Is there any joy in that
A. I think not

Q Do you intend to wash it
A No sir

Q Do you intend then to
allow it to remain there?
A Yes sir.

Q Now which side is that
Mr Byrne That is on the
east rim. Is there any
reason to believe that
that mass of Clay that you
have been describing will
slide into the excavation
that you are working in
the gold run Claim — in
the Indiana ^{Hills} Claim

A. No sir ^{there} this is a wall
of Cement and boulders ^{which} lies
between that and the pay
streak in the channel
that is as much as 200 or
300 hundred feet thick.

Q Some of the witnesses for
the plaintiff testified that
they ^{saw} Clay in the
bottom pits ^{if} have they
found Clay there where

did it come from?

A. It must have come from the east rim and slid down. There was a very large slide of that claim. That clay and boulders rolled down on the bed rock and there are chunks of it there yet 20 feet square.

Q Where do you say that came from?

A. From the east rim.

Q Is it any part of the original material in the channel of the claim?

A. No sir. None that they ever work.

Q If I understand you to say that there is no clay whatever in the lower pit?

A. None that I ever saw yet.

Q You have seen all the mines that have been worked in that neighborhood.

A. I have. There is none in the mines that I have seen.

Q Have you devoted your personal attention during the last 10 or 11 years to working in this property?

A. Yes sir

Q. How often have you been in the claim?

A. I am around the mines every day.

Q. If there had been any pipe clay or anything of that kind in the bottom gravel there you would have known it, and would have seen it, would you not?

A I would sir

Q. Now is there any, and if so, how much sand in that bottom material?

A Well, I estimate the rock at from somewhere about 80 per cent; taking from the top of the Blue gravel, to the bed rock?

~~Mr~~ A. I think that the ^{that} other is about - the balance of it is about equally

divided between gravel and sand

Q. So that about what percentage would be sand?

A. It would be about 10 per cent

Q. What kind of sand is that? A. Coarse sand

Q. Did you see the samples that were offered here as being taken from the American River?

A. I never have

Q. How much more, in your opinion, of material was moved by the same quantity of water in the upper washings, and with a 12-inch grade to the bot, than can now be moved with a 6-inch grade of your flume, of the bottom material?

A. I should judge 4 or 5 times as much

Q. Four or 5 times as much? A. Yes sir

Q. How much do you

estimate that you in the future can ^{move} - how many cubic yards do you estimate that you can ^{move} use of that bottom material to the inch of water in the 24 hours? A. From $2\frac{1}{2}$ to 3 cubic yards to the inch of water

Q. I believe that was Mr Hall's estimate also? How much then do you say was moved in early times of the top material with the heavier grade that you have spoken of? The Court to the inch?

A. You mean how many cubic yards?

Mr Byrne Yes sir. If you have formed any opinion about it; if not, you need not answer it?

A. Well I stated 4 or 5 times more could be washed

Q. Does this gravel contain gold from the sur-

face clear down?

A. The bottoms?

Q. No, the top

A. Are you speaking of the blue gravel?

Q. I am speaking of the whole deposit there, the entire material that is washed away? A. Yes sir - let me understand you - I suppose you mean the bottom washings, do you not? or do you mean from the surface to the bed rock, or do you mean in the blue gravel?

Mr Byrne I mean, first from the surface to the blue gravel - does that contain gold? A. It does. I do not know that it contains gold all through it. I do not think that the pipe clay would contain very much gold

Q. How about the blue gravel? A. The blue gravel contains gold,

the whole of it, all the way through

Q. Is there any portion of that blue gravel that can be worked without the use of powder to pulverise it? A. Yes sir. There is from 60 to 70 feet, there was, over the Indiana Still Claim that could be washed off without blasting.

Q. And how about the lower portion? A. The lower portion cannot be. It will have to be blasted solid cement.

Mr Hart The last 60 feet?

Mr Byrne The last 60 feet? Yes sir

Mr Hart You called it cement and rock in the lower portion? A. Yes sir

Mr Byrne By what process is it necessary to work the bottom 10 feet that you have described how can that be worked?

A. To work it profitably it would have to be milled, it is very hard.

Q. Crushed in a mill?

A. Yes sir

Q. Is it a fact that you are leaving it there for that purpose at the present time? A. Yes sir

Q. Why? A. We are leaving it there, because we have erected no mill to crush it with

Q. I understand you that it is necessary to crush it?

A. It is.

Q. Why is it necessary?

A. Because it is so hard that it will not wash. To blast it up and run it through without washing, we could not get the gold out of it

Q. It would run through in large masses and chunks?

A. Yes sir

Q. How does that compare in hardness with ordinary sand stone?

What bottom material?

A. Well I do not know, it is very hard

Q. Can you break it with a pick? A. No sir, not very easily

Q. What effect does a stream of water have upon it when you put your pipe against the bank? A. It does not make any impression upon it, at all

Q. How long have you known a stream of water to be projected against that bank without cutting down any of that material?

A. Well, we used to try to cut it when we first got down, and tried for 6 hours, and we could not

Q. What was the condition of the water that came away from that bank?

A. Perfectly clear - just as clear as it was when it went to the bank

2. Perfectly clear. Does this hard material on the bottom extend across the entire channel?

A. Yes sir, I think it does.

2. Now when you ^{completed} your tunnel there you sunk a shaft, I believe?

A. Yes sir.

2. Did you sink that shaft upon the channel?

A. No sir.

2. Why? A. We didn't know where the channel was at that time - in other words, we raised the shaft, as we call it, raised it from the tunnel up, and went to washing, and we found that we were on the rim.

2. On which rim?

A. On the east rim, we had not run our tunnel far enough ahead to reach the channel, and we washed off the east rim, and that was the cause

of our exposing this pipe clay or blue clay, and boulders, we did not sink far enough into the channel

Q. That is to say, you did not extend your tunnel far enough to get into the channel? A. We did not run the tunnel far enough by 4 or 5 feet

Q. How deep is the tunnel under the bottom of the channel? About how deep?

A. Where we raised up, I think it was about 60 or 70 feet

Q. And when you did that, I understand you to say that you did not know whether you were under the channel or not?

A. No sir

Q. How wide did you say the excavation is there, that you have washed from side to side? A. Well it varies. South from the shaft - the first shaft -

it is very wide

Q. Why was it washed so wide? A. Because we did not know where the channel was, and we washed in sinking down, we sunk near this shaft, and washed into it, there, and washed into it, and washed off a large amount of material that we would not otherwise have washed, if we had not known where the channel was

Q. If you had known where the channel was, you would not have washed as much material as you have washed in fact?

A. No, sir.

Q. Do you now know where the channel is? A. Yes sir

Q. Is that well defined?

A. Yes sir, it is well defined

Q. What is its width?

A. What we call the pay streak is about ²⁰⁰ 200 feet wide on the bottom, and about

600

✓
Go on top

2. At what point do you now speak of? A. I speak of the north side of the claim where we have opened up there

2. Is that channel or is it not, well defined?

A. Yes sir. It is now

2. A miner could go there, and at once determine where it was?

A. With trouble at all

2. How much of the bed rock have you stripped there? A. A very small piece on the west side, about perhaps 100 feet long, and 50 feet wide, that we have stripped off, and partially cleared

Mr Cadwalader Please mark with a pencil, that place on the bed rock on that diagram?

A. & The witness does so

Mr Byrne In your future operations is it your in-

tion to wash any more of that side gravel, which is not upon the channel?

A. No sir

Q. Or ^{on} the ~~the~~ pay streak?

A. No sir

Q. Have you made an estimate of the quantity of material that remains in the channel to be washed, and which you intend to wash, if permitted?

A. Yes sir. I have made an estimate of the amount that remains in the whole channel.

Mr Start The amount of what? A. The amount of material, it is of course, approximate, but it is as near as I could get at it.

Mr Byrne Does that embrace the channel which remains in the district to be washed? A. Yes sir

Q. Including the properties of others, as well as

your own? A. Yes sir

2. How much is it?

A. Between eighteen and nineteen million cubic yards

2. Have you made an estimate of the amount of gold that will result from that washing

Mr Hart Can you do that? I object to it, unless it is shown that the witness is competent.

A. No. I believe I have not made an estimate

Mr Byrne You say you have not made an estimate

A. I estimated -

Mr Hart Answer the question. Have you made an estimate?

A. Yes sir I have made an estimate.

Mr Byrne Upon what?

Did you base that estimate?

A. Upon the amount of ^{gold} ~~rock~~ taken out of the present washings there of the deep pit

2. In what mine?

A. In the Indiana Hill claim

Q. By what means? did you arrive at that, or how did you estimate it?

A. I estimated that we had washed 300 feet on an average of the channel

Q. For length?

A. In length, and had taken out 261 Thousand dollars

Q. From 300 feet?

A. From about 300 feet of the channel

Q. I will ask you if it is true that the channel there pays or averages about the same one place as another?

A. Yes sir

Q. How do you arrive at that conclusion?

A. By cleaning up, By what we call "Clean ups," as we wash on the channel, ^{they} are about the same

Q. So that you can calca

late with reasonable certainty, about the amount that you ^{will} get? A. Yes sir
 Objected to as leading.

Mr Byrne The Reporter can strike that out

Mr Cadwalader How much was the figure? \$2,61,000? in the 300 feet

A. 300 feet in length of the channel

Mr Byrne How much then do you say will result from the washing of this remaining channel?

A. That the we have washed has paid about \$500 a foot, a lineal foot of the ~~tunnel~~ ^{channel} and the distance that remains to be washed is, about 2 miles, 10,360 feet. I have not got the figures of the exact amount, but between 6 and 7 seven million dollars

2. Is it your opinion that the channel will pay

upon an average the same as it has paid?

A. Yes sir

Mr Hart I would like to know whether he can estimate that, before that testimony is allowed I do not think that that is a matter susceptible of proof in any form, except by actual experiment

The Court He says that the washings show that it is a uniformly paying mine

✓ Mr Hart I do not think he can testify as to the grosse amount that can be taken from that hole. I think that as a fact, he may prove that it is uniform, and that so much has come out of 300 feet.

The Court Well, it does not make any difference whether he states the amount or whether we make the

calculation, after he has stated the other facts

Mr Byrne Have you included the hard material in the bottom, which, you say, must be milled, in order to be ~~properly~~^{profitably} worked?

A. No sir. I estimate that will pay \$100 per lineal foot additional

Mr. Start I would like to get the basis of that opinion now, or else have it stricken out. He has never washed any of that

Mr Byrne You have washed some of that?

A. We claimed some of the bed rock, that is, this little place I have marked here on the map - it may not be exactly the spot, but it is near it, at all events

2 - Have you taken any other means to ascertain the value of the material?

A - Certainly

2 - In what way?

A - With a molar and by pounding it up.

2 - In that way you have projected it?

A - Yes sir.

2 - Does that ^{afford} a reasonably good test of the value of such material?

A - I think so.

2 - When did you say the South Yuba ditch was extended to Gold Run?

A - In 1864.

2 - And how much water was used in that district from 1864, or whenever that ditch was completed, up to 1874?

A - About 6200 inches per day. For five months in the year.

2 - How much water has been used in that District during the past year? or, say, during the past seven years? From 1874 to 1881?

Ant Water

A - The average amount, as near as I could get at it is about twenty three hundred inches per day. That is, from 1875 to 1881. or 1874 to 1881. The average I should say is twenty three hundred inches per day.

Mr. Hart - That is taking it for the year or for only five months in the year?

The witness - Twenty three hundred inches per day, for five months in the year, since 1875.

Mr. Cadwalader - What do you call your days according to your estimate here?

A - Twenty four hours.

Mr. Byrne - How much water was used in that district during the last season?

A - It would average about 2550 inches.

Q - During the last season?

A - Yes sir.

Q - How many claims were worked there during the last season?

A - There were three claims that

were worked all the time.

2- Three claims worked there constantly?

A- Yes sir.

2- And your seasons, I understand you to say, are about five months in the year?

A- about five months. That is the average. Some years it is more and some years it is less.

2- That is about the average?

A- Yes sir.

2- How many claims will be worked there in the future, if they are permitted to be worked?

A- I don't know of but only two.

2- What claims are they?

A- Those two claims are the Excelsior of Halsey's and the Indiana Hill claim.

2- Speaking of the Excelsior claim; how much longer can that be worked without a deep tunnel?

A- It can be worked three or four months.

2- Without a deep tunnel?

A- Yes sir.

Mr. Hart - Do I understand you to say that there is no deep tunnel there now?

Mr. Byrne - Can that claim be worked more than three or four months without a deep tunnel?

A. No sir.

2 - Is there any deep tunnel there now?

A. No sir.

2 - Is there any in course of projection or construction?

A. ^{no} Yes sir. None, only a tunnel from the Indiana Hill, which would wash in that ground when it got through there.

Mr. Hart - When it got where?

A. To the Excelsior.

Mr. Byrne - Is the Excelsior company or are the owners of that property running ^a ^{to that} any tunnel claim?

A. No sir.

2 - Is there any tunnel constructed or projected or in course of construction in that District, except the Gold Run Tunnel?

A. No sir.

2 - So that ^{the entire channel} ~~any other~~ tunnel must

be washed through the Gold Run Tunnel, wherever it is washed at all ~~at all~~?

A. Yes sir.

Q. That is the fact?

A. Yes sir.

Q. Did you hear Mr. Allard's testimony in regard to the workings of the Excelsior claim; were you in Court when he testified in regard to that?

A. Yes.

Q. He stated that there were 1100 inches of water running in that claim? is that true?

A. No sir.

Q. Is that true or is he mistaken there?

A. It is not true.

Q. How do you know that it is not true?

A. Because we sell to Mr. Halley the water he uses, and measure it. With the exception of about twenty-five or thirty inches which he has bought of the Yuba company. That was waste-water, And we sell him

from 440 to 550 inches a day, according to the size of the nozzle he used.

Q What was the greatest quantity of water used on that claim at any time during the season of 1881?

A It did not exceed 575 inches.

Q It could not have exceeded that?

A No sir.

Q You say that you sold Mr. Halsey the water?

A Yes sir. All except about twenty five or thirty inches. He used to buy of the Yuba Company that amount of what was called waste water, Bank water.

Q How is that applied?

A - It runs over the bank.

Q It is not used in piping?

A No sir.

Q So that when Mr. Allard said that he measured 1100 inches of water there, he made a gross mistake?

A - He made a mistake. I will state, however, that there is a little ditch

with one cross flume, about half way down, which they used to get water out of. With an under-current. Taking out twenty-five to fifty inches, may be, through an under-current run. That also went down, and went into the flume. And they used that at times.

✓ Q ^{Did} That water go into the flume?

A No sir. It went into the lower part of the claim, perhaps four or five hundred feet from the bank.

✓ Q Then it went into ^{the lower part of} the flume?

A Yes sir.

Q How much would that make altogether?

A It would not make over six hundred inches. 625 inches at most.

Q Not to exceed 625 inches?

A I think not.

Q Mr Allardt also stated that the defendant in this case, the Gold Run Ditch & Mining Company, was operating in two different claims when he was there in

June?

A Yes sir.

Q Is that true?

A No sir. Only the Indiana claim was operating.

Q Was the Gold Run Ditch and mining company operating there at that time, in 1881, any claim except the Indiana Hill claim?

A Yes sir. We made a run of twenty seven days in a claim known as the Benton claim. It is marked on the map here showing >.

It was washed out, and the run was made in January or February of that year. I think it was about the middle of February that we finally finished mining that twenty seven days.

Q Was that operated in June?

A No sir.

Q When did it cease to be operated?

A In February.

Q So that Mr. Allard was mistaken when he said that that was in operation in June?

Mr Hart - I am going to object to this style of examination. I have sat here a long time and listened to it. Now they can ask the witness what the facts are. For the purpose of making any comparisons they desire. But I object to this style of examination.

The Court - I suppose you can omit Mr Allardt's name. I suppose that will be satisfactory.

Mr Hart - No sir. Not that. They can ask the witness as to the facts but this style of inquiring as to whether Mr. Allardt did not state so and so and as to whether he has not committed a great mistake, I object to. It is not the proper style of examination.

Mr Byrne - Mr. Allardt puts himself on the stand as an expert, and has asserted with a great deal of confidence certain matters which we say are not true. And we think we have a right to, and shall produce witnesses, to show that he is not correct.

Mr Hart I do not remember having

The Court. You can prove facts, but perhaps it is hardly proper to say that it is not true, in connection with Mr. Allardt's name.

Mr. Byrne. Perhaps it is objectionable; I admit that it is. Q- who did you say was the owner of that claim?

A S. Y. Halsey.

Q Did it ever belong to the Gold Run company?

A No sir.

Q Did the Gold Run company ever have anything to do with its workings or operations?

A No sir.

Q How many men do you work in the Gold Run mine? or how many men do you give employment to in the Indiana Hill mine?

Mr. Hart - I don't see any materiality in this. I am willing to let almost any answer in, but I don't see its materiality here.

Mr. Byrne. I think that Mr. Allardt stated that he saw two or three men at work there.

Mr. Hart - How is it material?

The Court - I think Mr. Allard was asked in regard to that. However, if it is not material, I don't suppose you will have any particular objection to it.

Mr Hart - I don't remember having asked any such question. I did not call for any such proof on our side. I don't remember it. Perhaps it was brought in when I was out.

The Court - Well, I think he can state how many men ~~it~~ were employed there. I don't see any objection to that particularly. You certainly asked according to my recollection, in regard to the number of men that were employed there. I suppose you would not have made the inquiry unless you had some point in the examination.

Mr Hart - Well, let him answer the question; how many men ~~are~~ are employed there?

As it varies. When we are working on the bottom of the channel

we use sometimes thirty-five men. When we are working on the upper strata, we don't use more than about fifteen to twenty men.

Mr. Byrne - How many men does Mr. Halsey employ?

A - I think I saw about ten up there in Halsey's claim.

Q - That would be forty-five men in the two claims?

A - Yes sir.

Q - Now when that Indian Hill claim is exhausted, what ~~did~~ do you propose to do in your operations there?

A - We proposed to extend the main tunnel to the North Star ground; 1550 feet. And open up in the North Star ground, (showing on the map)

Q - And what then?

A - And wash up the ^{channel} mountain. Extending the tunnel from year to year as we needed it.

Q - State what you intended further to do? later? to what claims do you propose to extend it?

A - Clear through. Clear through

to the Railroad,

Q Is it practical, or do you intend to work anymore than ^{one} ~~the~~ claim at a time through that tunnel? Can you work more than one claim at a time through that tunnel?

A No sir, Not to advantage, I don't consider that we could.

Q Did you hear Mr Grunsky's testimony?

A I heard most of it, I believe.

Q Did you hear his statement as to the quantity of material that had been washed out of the Indiana Hill claim?

A I don't think I heard that.

Q Were you at the mine when he made his examinations there?

A Yes sir.

Q And measurements?

A Yes sir.

Q Do you know what he stated as to the quantity of material that was washed out of that excavation?

Mr Hart - We object to that. If it is for the purposes of impeachment we object on the ground that no

foundation has been laid. If it is for the purposes of contradiction, the question is not proper. Let this witness state the facts as he knows them, I propose to state them, But I object to this method of examination.

The Court - I do not think it is unusual to examine a witness in that way.

Mr. Hart - This is not competent testimony for any purpose. They have laid no foundation for impeachment. And it is objectionable to ask a witness for the defense, in any such case, as this what another witness has stated on the stand, What ~~the~~ he said speaks for itself. An impeachment can only be had where the proper foundation has been laid by the proper questions to the witness sought to be impeached.

Mr. Byrne - I will ask him if he knows what Ismursky did say.

The Court - I think I will allow the question. It is quite usual to ask such questions. I will allow it. 4

Mr Hart - I save an exception.
 The Court - It is a very ordinary mode of examination.

The witness - I believe I did not hear what Mr Smusky stated.

Mr Byrne - Do you know the quantity of water that was used in washing out the amount of material that Mr Smusky testified in relation to? A survey?

A - Yes sir.

Q - How much water was used for that purpose?

A - 1124 ~~at~~ thousand inches

Q - 1124000 inches

A - Yes sir.

Q - How do you know that?

A - By measurement. We measured it when we run it.

Q - From what sources did you obtain that information?

A - From measuring the water.

Q - Did you do that yourself?

A - I had ^{agents} ~~agents~~ to do it.

Q - It was done under your supervision?

A - Yes sir.

Mr Hart - That is, the matter of

Ant water in mine

of the entire excavation?

A - Yes sir.

Mr. Byrne. - All that Mr. Ismaley testified in relation to?

A - Yes sir. I suppose so.

Q - That is correct is it

A - This is correct.

Mr. Cadwalader - You say it amounts to 1,124,000 inches?

A - Yes sir.

Mr. Byrne - How much water can your company, in fact, profitably use in that mine at Gold Run?

A - Our head of water varies. We use from eight to 16 hundred inches, according to the material we have to move.

Q - For how many months in the year?

A - It averages about five months.

Q - And for how many hours a day?

A - Twenty four hours.

Q - You estimate twenty-four hours - inches?

A - Yes sir.

Q - What would that average be?

A - The average would be about 1250 inches.

✓ 2. That quantity of water you intended to use in your operations there in the future?

A - Yes sir.

2- Are there any claims in the District that will continue to operate until your tunnel comes up to where ever they may be situated?

A Well, I don't know as to that.

2- You don't know?

A No sir.

2- What did you estimate the quantity, in cubic yards to the miners with of 24 hours, that you will wash in the future?

A From $2\frac{1}{2}$ to three cubic yards an inch, in twenty four hours.

2- How much of that material will be moved by the water to any considerable distance below the mouth of the Canon there?

Mr. Hart - I object to that until he shows himself competent to answer that question.

Mr. Byrne - I think he has already shown himself competent.

Mr. Hart - I don't think he is competent to testify how

✓ ^{moved} ~~is~~ far that material will be ~~is~~ moved.

✓ Mr. Byrne - Yes sir. I think he is competent to testify to what extent that may be moved. To what extent have you observed results? I will ask you this question (addressing the witness): To what extent have you observed the results of your operations here, with reference to the deposition of these ^{materials} ~~matter~~, and how far these tailings have been moved down the stream below Canon Creek?

A Well, I have not made any examination of that river at all, until two or three months ago. I know but little about it. About the river.

Mr. Hart - You say you know but little about it?

A Yes sir.

Mr. Byrne - Until what time ago?

A Two or three months.

Q Who was foreman of the Excelsior claim last season.

✓ A H. L. ^{Noyes} Noyce.

Q What is the character of the ^{material} ~~ground~~ rock in the Excelsior claim? What was it last season?

A - It was blue gravel. In some places, in some points, in some little points that struck up, which had been left after former washings, it was redish gravel, but the most of it, $\frac{2}{3}$ of the bank was blue gravel.

Q Now speaking about this channel, and thus of the material that we have been talking of: how long will it take you to work off that, if you were permitted to work it out? up to the line of the Railroad? Which I understand is all that can be washed out into Canon Creek?

A We estimate that we can wash three hundred feet a year on the channel. And at that rate, it would take about thirty five years.

Q How much of ~~that~~ material, if you know, will go five miles from the mouth of Canon Creek?

A - I think but very little will

go five miles, if any.

Mr. Hart - Now I move that that be ~~stricken~~^{struck} out, as incompetent. I made the same objection a moment ago. And the question was asked immediately afterwards in regard to his knowledge of these premises. And the witness said that he did not know anything ~~at all~~ about this Creek ~~at all~~, until within a short time. And did not know but very little about it any way.

Mr. Byrne. - That was on a different proposition.

Mr. Hart - I have his answer written down here. He stated that he had not noticed rushing of material down there, and didn't know much about about it.

Mr. Byrne - He stated that he had not noticed the condition of the river until lately.

Mr. Hart - Let the Reporter read. The Reporter read.

Mr. Hart - Now we object to this examination, and move that the last question and answer be struck

out.

Mr. Byrne - They have been trying to show that all or nearly all of this material came down the river.

The Court - The question is only as to the competence of the witness to testify.

Mr. Byrne - I will ask him his means of knowledge. He has already testified that he is an experienced miner. He has been engaged in taking care of this kind of property for years; and has been in this class of business and at work in connection with this kind of property almost every day since he came to the country. And he knows all about the subject matter. That he is an intelligent man certainly is very clear. And we think we are entitled to his testimony or the expression of his opinion as to how much of this material will go down the river? or for how great a distance it will go. This is an entirely different question from that which was objected to before.

But I propose to obviate the objection by asking his means of knowledge?
 2. What have been your opportunities for observation in regard to this very matter?

A. You mean, in the river below the claim?

Q. What is your knowledge in regard to the material, the material in the claim, and its amount ^{at} ~~to~~ the outlet? And your knowledge in regard to the creek or river below the out-let? so as to enable you to have any opinion, if you have one on the subject? to form a correct opinion?

A. I know that the material is very heavy and hard to move. On account of its being composed in such large part of rock. And I would not suppose that it could move a great ways after it reached the river. Although there is quite a heavy grade at that point in the river; from Cañon Creek down for quarter of a mile or so. It would perhaps take the material down as far as what is known as Pickemig's

Bar,

Q. How about canon creek itself?
Below the mouth of the channel? ^{tunnel?}

A. After getting down as far as Pickenings Bar, it falls in.

Q. How about canon creek itself?

A. It fills up there when we don't have a great deal of waste water in canon creek, it fills up ^{at} the dump.

Q. Why does it fill up in canon creek?

A. The material being so heavy and rocky, the water that we use don't wash it down the creek.

Q. When does it go, if it does go? or I will ask you; what is the grade of Canon Creek from the mouth of your tunnel to the north fork?

A. I don't know the exact grade. But it is ~~not~~ nearly a thousand feet, in three quarters of a mile.

Q. A thousand feet in three quarters of a mile?

A. Yes sir.

A- Yes sir.

2- What ~~is~~ the nature of the bed of Canon creek?

A- Steep

2- What is it composed of.

A- Rocky.

2- Smoother though?

A- There are dumps in it.

Heavy dumps, Falls in Canon Creek.

The Court. Do you care anything about the original answer, Mr Hart? Do you want it stricken out.

Mr Hart. I don't care much about it, in view of the fact that what he now states, he states as a matter of supposition.

The Court. Then let it stand.

Mr Byrne. How much money has resulted from the operations of the Gold Run company since it went into operation?

Mr Hart. I am inclined to let some of this in, but I don't propose to stay here very long on it.

Mr Caldwell. It could only be material on the ground that it is net profit. Because if it is not

a net profit then it is not an industry.

Mr. Hunt - My objection would be different from that, if I am allowed to make one. My objection would be that whether it is an industry or not, they have no right to use that industry so as to cover up other people's industry; but they must pursue their industry in a legal way.

Mr. Caldwell - We have always claimed that there could be no industry which did not produce some profit; that is, in the course of twenty five years.

The Court - All great industries are reduced by competition, I suppose, to a small margin of profits. It may be a question, sometimes, whether an industry is pursued for immediate profit, or with the expectation of one. I wish counsel would concentrate their inquiry on this matter as much as possible. If it be the object simply to show that this is

a great and important industry, it seems to me that that proposition might be met by a statement on one side and an admission on the other.

After discussion between counsel Mr. Hart said:

Mr. Hart - I withdraw my objection. I simply desire that counsel should understand that I did not wish to have a great deal of this matter, and did not propose to take a great deal of it without objection.

The Court - I think you can concentrate your proof greatly, if you think it material on this point. Probably it is not necessary to go elaborately into the question of profits. It may be comprehensively stated. If you wish this to be a complete test case, I suppose this matter had better go in, in as concentrated a form as possible.

Mr. Byrne - Do you know how much money has resulted from the operations of the Gold River Mining Company since its formation.

The Witness - No sir, I only know what it has been for the last six years. Since we commenced working on the blue gravel.

Q How much is that? How much is that for the last six years?

A It is \$406,694.

Q How much of that came from the Indrains Hill claim?

A \$261,152.⁰⁰/₄

Q How much money has your corporation expended in the purchase and development of its property there?

Mr Hart - That has been stated once.

Mr Byrne - I think not sir.

A \$503,585.⁰⁰/₄

Mr Hart - That is all the properties!

A Yes sir.

Q \$503,585.⁰⁰/₄

Mr Byrne - What has been derived from the operations of that company during the last ten years? I mean since the formation of the company?

A It has been eleven years, since its formation.

Mr. Cadwalader - Unless this is proving the dividends of the Company, I shall object. If this is a stock Company, the testimony should take the form of question as to what the dividends are.

The Court - The objection is overruled.

Mr. Byrne - State what the profits have been!

A - They have been \$323,585 during the last seven years.

Q - \$323,585⁰⁰/₁₀₀?

A - Yes sir.

Q In constructing a flume for the purpose of mining, ~~to~~ do the miners seek to make the floor or bed of the flume - the ^{floor} ~~flume~~ ^{or} bed of the flume - rough or smooth?

The witness - You mean by that the bottom of the flume? or the blocks or riffle, which you run the dirt over?

Mr. Byrne - I mean the surface upon which the gravel runs?

A It is usually put in as smooth as possible. With little spaces between the blocks,

of about three inches, to hold the quick silver and to catch the gold.

Q-Why is it made smooth?

A-So that the gravel will run over it easily.

Q-Would any practical miner or any man who knows anything about mining, advisedly make the bed or floor of a flume as rough as possible?

A-No sir.

Q-Did you hear Mr. Allardt make that statement?

A-I believe I did.

Mr Byrne - That is all.

Cross-examination of J. L. Gould.

Mr. Hart - Mr. Gould, you speak of the profits of your company as being \$323,585?

A-Yes sir.

Q-Has your company ever declared any dividends?

A-Yes sir.

Q-When?

A- Five years ago.

Q- There was a dividend declared five years ago?

A- Yes sir.

Q- What was it?

A- About thirty four thousand dollars.

Q- How many shares are there in the company?

A- There are nine thousand and fifty shares.

Q- That would be a little less than four dollars a share?

A- It was three dollars and six bits I believe. It may be a little less.

Q- What became of that dividend was it actually paid to the stockholders?

A- Yes sir.

Q- Since that time, you have drawn on the stockholders in excess of the amount of dividends?

A- I think there has been an assessment.

Q- Within five years?

A I believe there has been an assessment within five years.

Q How much has been the assessment?

A It was three or four dollars. I don't remember now exactly.

Q Has there been any more than one assessment?

A Yes sir.

Q How many?

A There has been more than one assessment within the last eleven years.

Q Within the last five years has there been more than one?

A I think not.

Q Prior to that time there was more than one assessment?

A Yes sir. I will give you the amount as near as I can. I don't remember all the assessments.

Q Well, you can give me the amount of the assessments?

A There has been about one hundred and eighty thousand assessment on the property.

Q That is against thirty four

thousand and some odd dollar
for dividends?

A- Yes sir, that was the money
actually paid in dividends.

Q That is all the money actually
divided?

A- Yes sir, that was the dividend
that was declared.

Q How many shares do you
own in that company?

A I believe I own 1836 shares.

Q You say you commenced mining
in this State in 1860 or in 1864?

A I said that I commenced
mining in this state in 1856.

Q How much are the debts of that
company at present?

A Not one dollar.

Q When did you go to gold
Run?

A In 1860. In the month of
December, 1860, I went to Dutch
Flat.

Q Then you first knew of the
gold Run mine in 1860?

A Yes sir, I saw the mines
in that district then.

Q When did hydraulic mining

Commence on the American river?

A- It had commenced when I went there?

Q- That was in 1839?

A- In December 1860.

Q- You say that you are acquainted with the hydraulic mines on the banks of the streams there? On the banks of the three forks of the stream there? upon the American river?

A- The mines at Cold Run I understand

Q- You stated to Mr Byrnes that you mined some a Dutch Flat and some other place?

A- Yes sir.

Q- Are you acquainted with Hydraulic mining on the two forks of the river.

A- I am somewhat acquainted with the mines at Dutch Flat.

Q- Also on the middle fork and the South fork?

A- No sir. I have not mind there since-

Q- (Intercepting) Are you acquainted

with the mines there?

A No sir,

Q You have seen them?

A Yes sir, That is, from 1836 up to 1860, I had seen the mines of the on the river, - some of them, - on the middle fork and on the south fork.

Q Where is the most extensive hydraulic mining on that river?

A On what river?

Mr. Hart - The American River as far as you know.

A I do not know but little about the American river, except at Iowa Hill and Dutch Flat. I have been at Iowa Hill some. But I have not been further than that since December 1860.

Q So far as you know, where is the most extensive hydraulic mining on the river? where is the most extensive hydraulic mining to your knowledge on the river?

A On the north Fork, I would say that within the last year, the most extensive mining was at Iowa Hill.

2. That is within the last year?

A. Yes sir.

2. Now, prior to that time?

A. I should think the most extensive mining had been at Dutch Flat. The most extensive on the waters that empty in to the north Fork, or at Gold Run.

2. Within the last ten years, where has been the most extensive hydraulic mining on the North Fork? making an aggregate of the operations?

A. I don't know which would be the most.

2. I will ask you the direct question? If the Gold Run mine is not the most extensive hydraulic mine if you know of on the ~~the~~ bank of the American river? ~~above~~ both in the extent of the mine and in the magnitude of its operations?

A. I do not think that it is. I should judge that those claims at Doway hill wash out more material than was washed out in the Indiana Hill claim.

Mr. Hart - Read that question Mr.

reporter.
Therefore read.

A. In the extent of the mine,
I will answer that I presume
it is.

2. And in the magnitude of its
operations, in the past, from 1870
up? I cannot tell which has washed
out the most dirt within that time?

A. I don't know.

2. Have you any judgement on
that subject?

A. No sir, I know but little
of the mines situated else where
Which is the largest pit; the
Doway hill or ~~the~~ Gold Run?

A. I don't know which.

2. Have you no idea?

A. No sir, I have never
examined them with a view
of ascertaining that.

2. I will ask you, whether
the pit and the evidences of
mining at Gold Run are not
at least twice as large as they are
at Doway Hill?

The witness The Gold
Run Mine?

Mr Hart - I speak of the mining at Gold Run? On the Gold Run Ridge? I ask you if the pit and the evidences of mining on the Gold Run ridge, are not at least twice as large as they are at Doway Hill?

A Oh, I think not.

Q You think they are not?

A No sir.

Q I will ask you, if there is any pit on Doway hill that is as large as the pit worked by this company, at Indiana Hill?

A As I have answered you before, I don't know whether it is or is not.

Q I will ask you if it is not as large? I will ask you if you don't know that pit at Gold Run to be as large and longer than the pit at Doway hill? I ask you if you don't know that the pit which is to be found at Doway hill is not as large as the one at Gold Run?

A I don't know.

Q Taking the planes of the hill, from your cursory examination, would you not be able to say whether the pit is not ^{twice} as large at Gold Run Ridge? the pit and the workings?

The witness - You are now speaking of the washing that has been had at Gold Run?

Mr Hart - Yes sir.

The witness - And what has been taken out at Iowa hill?

Mr Hart - Yes sir.

The witness - I think maybe that the washing off at Gold Run, at the top, is as large, well, ~~I could not state,~~
Q It is as large?

A Well, I could not state, but maybe.

Q Could you say that the washings at Gold Run are less than five times as much as they are at Iowa hill?

A It would be impossible for me to say. I do not know.

Q Can you swear now that it is less than ten times as

much?

A- I don't know sir how much it is.

Q- Could you swear now that the washings at Gold Run were less than twenty times as much as those at Iowa hill?

A- I don't care to give an opinion in regard to a thing that I don't know anything about. I have seen these other mines, but I have never examined them with a view to estimate the amount that has been washed out.

Q- How many times have you seen the pit at Iowa hill?

A- Two or three times, I have past it by.

Q- Have you ever been inside of the pit?

A- No sir.

Q- Is it not plainly visible from the place where you have past it by?

A- I think you can see these pits over there, as you pass by, in several places. In looking

across the river from Indiana Hill. I think you can see.

Q Now you have spoken of the character of the material in the pit at Gold Run? first state, how high it is from the rim where the Gold Run Company first commenced working that claim, and the ~~floor~~ bottom of the pit?

A On an average I think it would be from 150 to 160 feet. In some places, perhaps more. I think the average of that would be 160 feet deep.

Q 160?

A From where they commenced to wash, to the bed-rock

Q 160 feet?

A Yes sir, I should say it would be that distance.

Q What is the character of the top of this washing? That is, the place where you commenced washing?

A It was blue gravel.

Q At the top?

A Yes sir.

Q And what at the bottom?

A Blue gravel and cemented gravel.

Q Do I understand you to testify that the material from the top to the bottom of that pit is all the same?

A No sir.

Q What is the difference between the top and bottom wash?

A From sixty to seventy feet from bedrock up, it is cement.
Q Rock?

A Yes sir; cemented rock. And gravelly sand; etc.

Q Now when you speak of cemented rock, what kind of rock do you mean?

A Gravel. I mean gravel.

Q You mean gravel, sixty feet up?

A Sixty to seventy feet up.

Q What is this cement that connects this gravel there? What is this stuff that you call cement?

A It is fine gravel and sand. Some sand in it.

Q Fine gravel constitutes cement, does it?

A. I don't know exactly what the ingredients ~~it~~ are that makes cement. Not altogether. I know that that is hard cement. And there are large boulders.

Q. Well, boulders are not cement? I want to get at the cement itself?

A. Perhaps I could explain that better to you if ^{I had} that sample here. I got some samples of it. I presume I can tell ~~for~~ you better by looking at ~~a~~ and showing those samples, than I can explain to you otherwise.

Q. Is not this cement composed of sand and clay?

A. I don't think there is any clay in it. I never saw any.

Q. Is there sand in it?

A. There is sand and gravel.

Q. Sand in the gravel?

A. I suppose there is. It is very hard material I know.

Q. Here are Robinson's samples number one, two, three? Now look at these and see if either of these compose what you call cement, or contained what you called cement?

A. No sir. I don't think they do.

Q. I am now referring to Robinson's sample number two? What part of the mine does that material come from?

A. I should judge that came from perhaps 50 or 75 feet from the top?

Q. Now what do you call that?

A. That is the material that is on the top: blue gravel and sand.

Q. Anything else? Any particles of clay in this number two?

A. I don't see any clay in it.

Q. How far down does that kind of material extend on the bank?

A. It looks as if it came from seventy five feet from the surface.

Q. And from that up?

A. Yes sir. It changes as you get up. It is more loamy soil on the top.

Q. What do you call this material that is marked number three? and from what part of the mine does that come?

A. I think that comes from the east rim. It looks to me like what we call rotten boulders.

Q. You say that looks to you like what you call rotten boulders?

A. Yes sir.

Q. Is there any of that material that is in number three at any other place than on the east rim of the mine?

A. I have not seen it at any other place.

Q. Do you mean to testify that it can not be found elsewhere?

A. I think not. I think not. It could not be found elsewhere, unless it was washed down into the claim. Some of that material is washed down.

Q. I understand you to say, in your original examination, that you found this kind of material about 60 or 70 feet from the bottom?

A. Yes sir.

Q. This No. 2?

A. Yes sir.

Q. That runs up to the full height of the rim?

✓ A No sir. I did not ^{say} see that. I say that you might find that material within one hundred feet of the surface. And as you go upwards to the surface, it is more loamy and more reddish..

Q. You first find this within 100 feet from the bottom of the pit? Is that what you say?

A. Or 160 feet, say. Or 150. Or 140. From 100 feet to 140 feet I think you will find that in red gravel.

Q. Up from the bedrock?

A. No sir. From the surface down.

Q. I say starting from the lowest place where do you first find that kind of material in the red gravel. I think you find that kind of red gravel in in Indiana hill about 140 feet deep. You might pick out that kind of gravel at a depth of 100 feet from the surface.

Q. How far from the bottom of the pit do you first find that kind of material? How far from the bottom of the pit?

The witness - You mean the bed rock?

Q I mean from the bottom of the pit?

A Perhaps 180 feet.

Q Do you mean to testify that there is not particle of this kind of material in that mine until you get 180 feet from the bottom of the pit?

A Yes sir.

Q Do you mean to testify that there is not any of that material there in that distance?

A Yes sir. That is my opinion, sir.

Q That is your opinion?

A Yes sir.

Q And you testify to day as a fact, from your examination? that there is none of that kind of material in the pit that has been made by the Gold Run Company?

A Yes sir. At that distance. To the depth of 160 feet. There is none of that kind of material within 160 feet of the bed rock.

Q And none of that kind of material

in any of the washings of this company?

✓ A No sir; I did not ^{say} see that, I did not ^{say} see that.

2. I understood you to say that the washings of this company extended 100 feet? and within that distance that there was none of that kind of washing?

A Yes sir.

2. Do you mean to testify that there is none of that kind of material within the washings of this company?

A No sir. I do not mean to testify to any such thing.

2. Then what do you mean?

A I mean to testify that there is none of that material within 100 feet of the bedrock, in blue gravel.

2. And you mean to testify also, that this company has only washed 100 feet from the bed-rock?

A No sir.

2. Then what do you testify as to the number of feet they have washed? ✓

A They have washed on the East rim what would be more than

160 feet from the bottom of the channel.

Q How much more than 160 feet
A I don't know, 200 to 250 feet
perhaps

Q 2-250 feet?

A Perhaps so.

Q On the west river, how far have they washed from the bedrock?

A They have washed near the bedrock on the west river. They have washed up on to the bedrock.

Q Where does that material come from in this mine? if that material that is in that tube? I will ask you where does that come from in this mine? I shall assume that it comes from there.

Mr. Byrne - If he does not know that it comes from there, he may say so.

Mr. Hart - I object to their instructing this witness what to say about it?

A I don't know where it comes from myself.

Mr. Hart. Do you know that that kind of material constantly ran through the water from your mine through your tunnel and into the Canon Creek and from that into the North Fork of the American River?

A I know that it does not.

Q You know that it does not?

A Yes Sir

Q. Do you mean to testify that that was not found in the water coming from your mine?

A No Sir, I do not mean to testify to that

Q That what do you mean to say in regard to that kind of material running from your mine?

A I say this: that that kind of material does not come from the blue lead, what we call the blue lead

Q. I ask you from your mine that you are working now, what portion of that mine that material comes from?

A. It looks something like

the top wash - that does, of the red ground, it looks something like it.

Q Do you wash that kind of red gravel every day when you are washing? A No sir

Q How often, or what proportion of your time are you washing that kind of red gravel?

A We have not washed any of ~~that~~ kind of gravel in the Indanahill Claim. Excepting last spring we washed on the East run a small piece of ground that laid up on the East run on the surface ground.

Q I suppose the water that goes into your mine and comes down through your tunnel comes out as clear as a crystal, does it not?

A No sir

Q What is the color of that water when it comes out?

A Where ever are washing in the Claim proper, in the blue lead as we ^{term} call it, it is of a bluish color

Q. Containing iron?

A. I do not know what it contains

Q. After that water has run through your mine, can you drink it?

A. I have seen times that I think a man might

Q. What? A. I have seen times that I think a man comes without injuring him much

Q. But have you in times very recently when a man comes without injuring him a very great deal?

A. It is not usually the case, the water is usually very

Q. How very? A. Well, too
poorly to drink of course

Q. Very thick with mud is it not?

A. Not usually

Q. Not usually very thick with mud

A. No sir

Q. A great deal of sand is it?

A. Some little sand

Q. Well, a great deal of sand there?

A. No, I do not consider there is a very great

deal of sand.

Q. I do not mean to say that it fills your flume, but it makes the water very thick with sand? A. No sir, I do not know -

Q. Does it at any time get as thick with sand as the American River is opposite the City of Sacramento?

A. I do not know anything about that.

Q. Does your flume choke up occasionally?

A. Yes sir.

Q. What does that?

A. Boulder. Big boulders filling in sometimes fill it 3 or 4 feet deep.

Q. And nothing but boulder?

A. Oh! There is other material, finer material again.

Q. What is that other finer material? A. Fine gravel, some sand.

Q. A very great deal of sand too? A. No sir, I do not think there is.

Q. Even that kind of material

running through your mine in
June last? A What kind

2 The kind that is now there
in that tube of Allard's?

A I can not tell you. We
were running on this surface,
on what we term the red gravel
last June. We ran there on
that for six weeks or such a
matter, may be two months -
I do not know. I do not
remember the exact time now,
it is the only time we have ever
washed any red gravel in that
claim.

2 Are there boulders in your
mine, that you call rotten rock?

A Yes sir, on the East run

2 Are there any in the bottom
or near it? A No sir, I have
never noticed any.

2 Are there in that portion of
the mine which you washed?

A No sir, I think not.

2. None at all?

A. I think not, what we some-
times call like this sample here,
nothing that ever I saw.

Q. Like which sample?

A. I call this (referring)

Q. Are there not these things which appear to be boulders, and which, when taken into your hand easily crush, forming something else beside that, something more like that (referring) forming a sand?

A. There is cemented sand there that is hard and you take it up and rub it off course it will rub the sand off.

Q. A good deal of cemented sand?

A. No sir, not a great deal.

Q. How much in proportion to all there is in the mine?

A. Very little, there are narrow streaks of that, hard, like rock.

Q. Now what is there in that mountain excepting rock, anything at all? A. I stated it was gravel and sand.

Q. Gravel is made up of rock. Is there anything in that mountain except rock and gold?

A. Yes sir.

Q. Well, what is it that they

These rocks together, what is it that they are buried in?

A There is gravel, fine gravel, and some sand.

Q And nothing else?

A Nothing else that I know of

Q Nothing but sand and gravel?

A Rocks - big rocks

Q And after you get 60 feet above the bottom of the tunnel is there nothing there but sand and gravel and rocks? A. Sixty feet above the bed rock?

Q Yes sir. A. It is the same blue gravel, only it is not as hard as the bottom

Q And more sand?

A I think not.

Q. Lighter material?

A. Very much the same I think

Q Is it not lighter material?

A. I do not think it is, I think it is very much alike

Q. Now, you heard Mr Hall's testimony in relation to a division in that mine of two parts, an upper and a lower part, the upper part of which contained

Much lighter material than the lower part, doesn't you?

A I do not know whether I heard Mr. Stoll make that statement or not.

Q In relation to the washing power of the water there?

A I believe I was not in when he made that statement

Q Now is it not a fact that there is a division in this mine, an imaginary line above which you can see the material is lighter than it is below and does it not keep getting lighter and lighter as you go up to the top of your washings?

A I will answer it this way

Q Well, I ask you that question and you can answer it and then make your explanations if you have any

A I think not

Q You think that there is no place, where it gets lighter at all?

A No sir, it is very much the same

Q How is that?

A. The material is about the same

Q Is there not a run of red soil, comparatively red, near the top of this mine, or red material, I mean along the edges of this pit and in the pit? A No.

Q There is nothing of that kind? A In the pit there is not

Q Is there not some remnants in it, in the side of the pit, I mean in the banks of the pit near the top, is there not some remnants of red soil, or the top soil which was formerly washed there?

A On the east run, yes sir

Q Is not there all around?

A No sir, I think not

Q What is it that gives this water its muddy character?

When it comes from your mine?

A I suppose it is the gravel

Q How does the gravel give it a muddy character?

A I do not know - gravel and sand.

Q You said that when you turned water upon one part of your mine, the water came away clear because the rock was hard, didn't you?

A Yes sir

Q Now what is about gravel that gives water a muddy character?

A I suppose it is the fine material that is in it

Q The fine material that is in the gravel? A I suppose so

Q A part of the gravel?

A Yes sir

Q What do you mean by gravel, what do I understand you to include in gravel?

A Rock and sand.

Q When you include say gravel you include rock and sand and such other fine material as may be found in small rocky beds?

A Yes sir

Q Even if a little clay is there you include that in the term gravel? A If there is clay there, we call it clay

Q If you find small particles

of clay in a gravel bed, you call the whole thing gravel, do you?

A. It is very seldom that you see any such thing as that

Q How is it that sand in any more gravel, than clay is?

A I do not know, sir

Q How do you break up these big rocks that you speak of

A By drilling and blasting them with strong explosives

Q Do you usually break them in large or small particles?

A They are usually broke up in pieces weighing 100 lbs or so. When you get the rock broke into pieces of 100 lbs it will generally wash through.

Q Do you usually break them into large or small pieces?

A We break them usually about the size of that box (referring). Some times they are broken smaller than that if the grade is very light

Q What is the character of the rock that you break there? A Hard rock

Q Running out through that tunnel, does that have any effect upon it? A No sir, I think not

Q. It does not have any effect, it does not wash it any? A. Wash it?

Q. It does not pulverize, or in any manner break it up? A. Nothing that I have ever seen

Q. You never have seen that water-worn, that kind of rock that you have ever seen? A. I do not think running through the tunnel, that it will wear that you can perceive

Q. It does not grind it up any? A. No sir

Q. Don't you know that it does grind, and must grind it up running through a tunnel of that distance with other rocks, and with the force of water that you put on it, a force sufficient to carry it down through the tunnel?

A. Nothing that you could perceive. I do not think

Q. Have these rocks got any gold in them, that you break up?

A. I think not, I do not know

Q. How do you know that this clay contains any gold that you speak of. I understood you to say that the clay contained some gold?

A. If I said so, I certainly did not mean it. I said it did not contain any gold that I knew of

Q. Why didn't you leave these rocks that you speak of, in the pit, instead of putting them into the river, if they contained no gold?

A. You could not work your mine at all without you get the rocks out of the way, for three-fourths of the whole is rock, and you have to run them out of the way, big and little

Q. Now, you say, there

is none of this material that you have washed out there lying at your dump?

A. Very little

Q. How much is there lying there? A. Oh, comparatively nothing, - perhaps 2 or 3 feet deep. I do not know. I have not examined to see the exact depth of it

Q. Well, 3 feet deep, and covering how large an area? A. I have not examined it sir, to see, so that I could make any estimate, an accurate estimate of any such thing

Q. What fall have you in your tunnel - how much fall?

A. It is 6 inches to the 12 feet

Q. How much water do you run through it?

A. From 800 to 1600 inches

Q. How does that fall

compare, six inches to the 12 feet compare with the fall in Cañon Creek from there to the mouth of the north fork?

A. It is not as great?

Q. Which is not as great?

A. The fall in the claim I suppose

Q. The fall in the tunnel is not as great as it is in Cañon Creek, is it?

A. I think not

Q. How does the fall in that tunnel compare with the fall in the north fork of the American River, below the mouth of Cañon Creek? A. I do not know the exact grade below Cañon Creek. It looks steep; perhaps a short distance it may have the same grade as the tunnel

Q. Now, you say, in this mine you employ 35 men. When did you employ 35 men? A. Whenever we work on the bottom, - I think we used about thirty-five men about a year ago last Winter.

Q. Well were there 35 ~~men~~ there? A. Yes sir.

Q. At times, How much time did you use them?

A. When we were working on the bottom we would use them for months at a time.

Q. How many months a year ago last winter did you use 35 men

A. Well I could not tell you without going to the books

Q. Did you use them one month? A. Yes sir

Q. How ~~many~~ many were you using last June?

A. Last June we were working on the east rim and I should think we were using, working about twenty five men.

Q. Where were they at work?

A. In different places in the Claim and in the tunnel

Q. At different places in the Indiana Hill Claim

A Yes.

Q How many were working in the pit?

A Some days more and some days less.

Q How many any day that you may mention?

A Twenty probably in cutting down the ground sluices and so on.

Q Twenty in the pit?

A Yes sir

Q Cutting down what sluices?

A Working in the bottom.

Q Well I did not ask you about working in the bottom I ask you how many men you were employing when you worked on the east rim you say 25 now I ask you how many in the pit at that time — how many men could be seen working at one time?

A In the Claim all over I do not know that they were all in the pit or

all in the east rim and
in and about the claim
usually the last year I
think from 20 to 25 men
Q Well now when you say
in and about the claim
what work do they do in
and about the claim
these 20 or 25 men

A There are various things
to^{do}, there are men to pipe,
men to break boulders and
watchmen down in the
tunnel.

Q How many men watchmen
do you have down in the
tunnel?

A Two, one night and one
day time

Q How many at the pipe
A usually two.

Q usually two at the pipe
where are the others

A I have a blacksmith

Q He is working at the
blacksmith trade?

A Yes sir, and a man breaking
rock and cutting down deep

Cuts in the bed rock and
all kinds of work

Q. Those things have nothing
particular to do with hy-
draulic mining have they?
A. They have all to do with
it.

Q. Blacksmithing

A. Blacksmithing and brea-
king boulders

Q. Blacksmithing has about
as much to do with mining
as horse shoeing has to do
with farming?

A. You could not get along
very well on a claim
without a blacksmith.

Q. You could not get along
on a farm with out a
blacksmith or else have
somebody in town to do
the work?

A. Well I do not know I
am not much of a farmer

Recess Until
8 O'clock P.m.

